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Securities and Exchange Commission  
Washington, D.C. 20549

## FORM 8-K

Current Report  
Pursuant To Section 13 or 15(d) Of  
The Securities Exchange Act of 1934

Date of Report: August 3, 2012

# RICK'S CABARET INTERNATIONAL, INC.

(Exact Name of Registrant As Specified in Its Charter)

Texas  
(State Or Other Jurisdiction of Incorporation)

001-13992  
(Commission File Number)

76-0037324  
(IRS Employer Identification No.)

10959 Cutten Road  
Houston, Texas 77066  
(Address of Principal Executive Offices, Including Zip Code)

(281) 397-6730  
(Issuer's Telephone Number, Including Area Code)

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### ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On August 3, 2012, our wholly owned subsidiary, Jaguars Acquisition, Inc. ("JAI"), entered into a Purchase Agreement (the "Purchase Agreement") with Bryan S. Foster and 13 entities owned by him (the "Companies"), to acquire nine operating adult cabarets and two other licensed location under development (collectively, the "Foster Clubs"). Ten of the clubs are located in Texas, including clubs in Tye (near Abilene), Lubbock (two clubs), Odessa (two clubs), El Paso, Harlingen, Longview, Edinburg and Beaumont, and one club is located in Phoenix, Arizona. The Purchase Agreement provides for JAI and its subsidiaries to acquire certain of the Companies and the assets of certain of the Companies, whereby all 11 of the Foster Clubs will be acquired. As consideration, JAI and its subsidiaries will pay to Foster and the Companies an aggregate consideration of \$26,000,000, including \$4,000,000 cash at closing and \$22,000,000 pursuant to a secured promissory note (the "Club Note"). The Club Note will bear interest at the rate of 9.5% per annum, be payable in 144 equal monthly installments and be secured by the assets purchased from the Companies.

The Club Note will also provide that in the event any regulatory or administrative authority seeks to enforce or attempts to collect any tax or obligation or liability that may be due pursuant to the Texas Patron Tax (sometimes referred to as the "Pole Tax") or related legislation, then the then outstanding principal amount of the Club Note, as of the date the tax is enforced, will immediately be reduced by an amount calculated by multiplying 1,200,000 by the dollar amount of the per-person tax implemented (the "Reduction Amount"). The Reduction Amount cannot exceed \$6,000,000. By way of example, if exactly two years after closing, a \$2.00 per person tax is implemented and enforced, the Reduction Amount would be \$2,400,000 and the then principal amount of the Club Note would be reduced \$2,400,000. The Texas Patron Tax is currently enacted to be \$5 per person which would equate to a \$6,000,000 Reduction Amount if enforced.

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In connection with the Purchase Agreement, our wholly owned subsidiary, Jaguars Holdings, Inc. ("JHI"), entered into a Commercial Contract (the "Real Estate Agreement") with 12 entities owned by Mr. Foster (collectively, the "Real Estate Sellers"). The Real Estate Sellers own the real estate where the Foster Clubs are located (collectively, the "Real Estate Properties"). The Real Estate Agreement provides for JHI to acquire the Real Estate Properties from the Real Estate Sellers for aggregate consideration of \$10,000,000, including (i) \$350,000 cash at closing of the Real Estate Agreement, (ii) \$9,000,000 pursuant to a secured promissory note (the "Real Estate Note"), and (iii) 12 years from the date of closing, a one time payment of \$650,000. The Real Estate Note will bear interest at the rate of 9.5% per annum, be payable in 144 equal monthly installments and be secured by the Real Estate Properties. Both the Real Estate Note and the Club Note will have cross-default provisions.

The closing of the transactions contemplated by the Purchase Agreement are to take place five business days after JAI and/or its subsidiaries have all necessary permits and authorizations which are needed to conduct an adult entertainment business at the club locations. The closing of the transactions contemplated by the Real Estate Agreement are to take place contemporaneously or as soon thereafter as possible.

At closing of the above transactions, Mr. Foster will enter into a five-year non-competition agreement providing for him to not compete with us or our subsidiaries by owning, participating or operating an establishment featuring adult entertainment within a radius of 50 miles of the location of any of the adult clubs owned by our subsidiaries, excluding the adult cabaret located at 11327 Reeder Road, Dallas, Texas, 75229.

The terms and conditions of the Purchase Agreement and the Real Estate Agreement were the result of arm's length negotiations between the parties. A copy of the Purchase Agreement is attached hereto as Exhibit 10.1, and a copy of the Real Estate Agreement is attached hereto as Exhibit 10.2. A copy of the press release relating to this transaction is attached hereto as Exhibit 99.1.

#### ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

##### (d) Exhibits

Exhibit Number	Description
<u>10.1</u>	Asset Purchase Agreement
<u>10.2</u>	Commercial Contract – Improved Property
<u>99.1</u>	Press Release dated August 9, 2012

#### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

RICK'S CABARET INTERNATIONAL, INC.

Date: August 9, 2012

By: /s/ Eric Langan  
Eric Langan  
President and Chief Executive Officer

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## **PURCHASE AGREEMENT**

This Purchase Agreement (the “**Agreement**”) is made and entered into this \_\_\_\_ day of August, 2012, by and among JGC Tye, LLC, a Texas limited liability company, JGC Lubbock Gold, LLC, a Texas limited liability company, JGC Odessa Gold, LLC, a Texas limited liability company, Gold Suit, Inc., a Texas corporation, JGC Harlingen, LLC, a Texas limited liability company, JGC Longview, LLC, a Texas limited liability company, JGC Edinburg, LLC, a Texas limited liability company, JGC Phoenix, LLC, a Texas limited liability company, and TI Club, LLC, a Texas limited liability company, (collectively, the “**Asset Sellers**,” and each individually an “**Asset Seller**”); C. A. Ault Investments, Inc., a Texas corporation (“**CAA**”), Sadco, Inc., a Texas corporation (“**Sadco**”), JGC Beaumont, LLC, a Texas limited liability company (“**JGC Beaumont**”), and S Willy’s Lubbock LLC, a Texas limited liability company (“**Willies**”), (collectively, the “**Companies**,” and each individually a “**Company**”); Bryan S. Foster, an individual (“**Foster**”); and Jaguars Acquisition, Inc., a Texas corporation (“**JAI**”), which is a wholly owned subsidiary of Rick’s Cabaret International Inc.(“**Rick’s Cabaret**”). The Asset Sellers, Companies, Foster, and JAI are sometimes hereinafter collectively referred to as the “**Parties**”.

**WHEREAS**, the Asset Sellers each own and operate the adult cabaret set forth opposite each Asset Sellers’ name on Exhibit A attached hereto (collectively, the “**Adult Cabarets**,” and each individually an “**Adult Cabaret**”);

**WHEREAS**, CAA holds the Sexually Oriented Business license under which JGC Lubbock Gold, LLC operates its adult cabaret;

**WHEREAS**, JGC Beaumont owns and operates an adult cabaret known as “Jaguars” (“**Jaguars-Beaumont**”) located at 5900 College Street, Beaumont, Texas 77707 pursuant to a Sexually Oriented Business license issued by the City of Beaumont;

**WHEREAS**, Willies owns and operates a recently constructed adult cabaret, which has not been named yet, located at 102 E. CR 7200, Lubbock, Texas 79423 pursuant to a Sexually Oriented Business license issued by the City of Lubbock;

**WHEREAS**, Foster owns (i) 100% of the membership interests of each of the Asset Sellers (except for Gold Suit, Inc.) and each of JGC Beaumont and Willies and (ii) 100% of the shares of common stock of each of Gold Suit, Inc., CAA and Sadco;

**WHEREAS**, the entities set forth in Exhibit B (collectively, the “**Real Estate Sellers**,” and each individually a “**Real Estate Seller**”) each own the real estate property set forth at the address opposite each Real Estate Sellers’ name in the exhibit (collectively, the “**Real Estate Properties**,” and each individually a “**Real Estate Property**”), each of which includes the improvements, including building and fixtures, located on such properties;

**WHEREAS**, prior to the Closing (as defined below in Section 2.1), JAI will organize and form, as wholly owned subsidiaries, the entities set forth in Exhibit A (collectively, the “**Asset Purchasers**,” and each individually an “**Asset Purchaser**”);

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**WHEREAS**, the Asset Sellers and the Asset Purchasers all desire that the Asset Sellers sell, transfer, convey and assign all of the assets owned by each of them which are associated or used in connection with the operation of each of the Adult Cabarets to the Asset Purchasers, on the terms and conditions set forth herein;

**WHEREAS**, Foster and JAI both desire that Foster sell (i) 100% of the membership interests of each of JGC Beaumont and Willies and (ii) 100% of the shares of common stock of each of CAA and Sadco, to JAI, all on the terms and conditions set forth herein;

**WHEREAS**, in connection with the acquisitions of the Adult Cabarets and the Companies, the Real Estate Sellers and Jaguars Holdings, Inc., a Texas corporation (“**JHI**”), a wholly owned subsidiary of RCI Holdings, Inc., all desire that the Real Estate Sellers each sell their respective Real Estate Properties to JHI, free and clear of all liens, claims or encumbrances; and

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants and agreements and the respective representations and warranties herein contained, and on the terms and subject to the conditions herein set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

**ARTICLE I**  
**PURCHASE AND SALE OF THE ASSETS,**  
**MEMBERSHIP INTERESTS AND SHARES**

Section 1.1 Assets of the Asset Sellers to be Transferred to Asset Purchasers. On the Closing Date (as defined in Section 2.1 hereof), and subject to the terms and conditions set forth in this Agreement, each of the Asset Sellers shall sell, convey, transfer and assign, or cause to be sold, conveyed, transferred and assigned to the respective Asset Purchaser set forth opposite each Asset Seller’s name on Exhibit A attached hereto, free and clear of all liens and encumbrances, and each of the respective Asset Purchasers shall acquire, all of the tangible and intangible assets and personal property of every kind and description and wherever situated of the business of the Adult Cabaret of each respective Asset Seller, including but not limited to, the following personal property of each of the Asset Sellers:

- (i) all of the tangible and intangible assets and personal properties of every kind and description and wherever situated of the business of the Asset Seller’s Adult Cabaret, including, without limitation, inventories, furniture, fixtures, equipment (including office and kitchen equipment), computers and software, appliances, sign inserts, sound and lighting and telephone systems, telephone numbers, and other personal property of whatever kind and nature owned or leased by the Asset Seller, installed, located, situated or used in, on, or about, or in connection with the operation, use and enjoyment of the premises where the Asset Seller’s Adult Cabaret is located and all other items on the subject premises and used in connection with the operation of such Adult Cabaret;
- (ii) all of the Asset Seller’s inventory of supplies, accessories and any and all other items of personal property of whatever nature utilized or relating to the operation of the Asset Seller’s Adult Cabaret (the “**Inventory**”);

- (iii) all supplies (other than Inventory) and other "consumable supplies" used in connection with the operation of the Asset Seller's Adult Cabaret (the " **Supplies** ");
- (iv) all of the Asset Seller's right, title, and interest, as lessee, of any and all equipment leased by the Asset Seller and located at its Adult Cabaret (the " **Leased Equipment** ") for which the respective Asset Purchaser agrees to assume payment if disclosed by the Asset Seller. The Asset Seller shall cancel and/or pay for (i) any equipment lease that the respective Asset Purchaser does not elect to assume payment for and the use thereof and (ii) any undisclosed equipment lease;
- (v) all right, title, and interest of the Asset Seller to the use of the telephone numbers presently being used by its Adult Cabaret, including all rotary extensions thereto, and all advertisements in the "Yellow Pages", "City Directory" and other similar publications (the " **Telephone Numbers** ") and after the Closing, the respective Asset Purchaser shall assume all expenses for the Telephone Numbers and advertising;
- (vi) copies of the Asset Seller's lists of suppliers, and any and all of books, records, papers, files, memoranda and other documents relating to or compiled in connection with the operation of its Adult Cabaret which are requested by the respective Asset Purchaser (the " **Records** ");
- (vii) all intellectual property of every kind of the Asset Seller, including but not limited to all trade marks, trade names, service marks, patents, copyrights, and trade secrets;
- (viii) all universal resource locators (" **URL's** ") and internet domain names, including but not limited to "jaguarsgold.net", all source code and associated files necessary to operate URL's including but not limited to images, graphics, content of the web pages, page layouts, scripts, forms, and databases; and all goodwill associated with or used in connection with the operation or business of the URL's and internet domain names; and
- (ix) to the extent transferable, any and all necessary permits and authorizations which are needed to conduct an adult entertainment business at the Asset Seller's Adult Cabaret which the Asset Seller has the right to transfer and convey, including its sexually oriented business permit and license (if it has one) and all other licenses, consents, authorizations, accreditations, waivers and approvals (together with all government filings pertaining thereto), however designated, established, maintained or renewed and issued evidencing or authorizing the Asset Seller, the Asset Seller's agent(s) or nominee(s) for the purpose of engaging in the business and/or operation of an adult cabaret nightclub business, restaurant, bar, lounge, or any other business currently operating or capable of being operated on the premises of the Asset Seller's Adult Cabaret however characterized.

Section 1.2 All of the items set forth in Section 1.1 are collectively referred to as the " **Purchased Assets** " with respect to that Asset Seller. "Purchased Assets" may also refer to the Purchased Assets of all the Asset Sellers, collectively, as the context will determine. Exhibit 1.2 shall be a list of all furniture, fixtures and equipment included within the Purchased Assets for each Asset Seller.

Section 1.3 Excluded Assets. Specifically excluded from the Purchased Assets of each Asset Seller are (i) the corporate seals, books, accounting records and records related to corporate governance of the Asset Seller (ii) all Asset Seller bank accounts and all Asset Seller monies (including cash) on hand as of the Closing Date, (iii) all credit card receipts and ATM purchases as of the Closing Date and (iv) all other assets listed on Exhibit 1.3 (hereinafter collectively referred to as the “**Excluded Assets**”).

Section 1.4 Intent of the Parties. Although the description of the Purchased Assets for each of the Asset Sellers in Section 1.1 is intended to be complete, in the event Section 1.1 fails to contain the description of any assets belonging to the Asset Seller which are used for the business of its Adult Cabaret, such assets shall nonetheless be deemed transferred to the respective Asset Purchaser at the Closing.

Section 1.5 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, the Asset Purchasers shall have no obligation and are not assuming, and the Asset Sellers shall retain, pay, perform, defend and discharge, all of the liabilities and obligations of every kind whatsoever related or connected to the any of the Purchased Assets and/or the business of any of the Adult Cabarets arising or accruing prior to the Closing Date, whether disclosed or undisclosed, known or unknown on the Closing Date, direct or indirect, absolute or contingent, secured or unsecured, liquidated or unliquidated, accrued or otherwise, whether liabilities for taxes, liabilities of creditors, liabilities arising under any profit sharing, pension or other benefit under any plan of any of the Asset Sellers, liabilities to any Governmental Agency (as hereinafter defined) or third parties, liabilities assumed or incurred by any of the Asset Sellers by operation of law or otherwise, including, but not limited to, (i) contractual liabilities arising from any of the Asset Sellers’ business or ownership of any of the Purchased Assets prior to the Closing Date, (ii) any litigation existing or arising from any of the Asset Sellers’ business or ownership of any of the Purchased Assets prior to the Closing Date and (iii) any taxes owing by the any of the Asset Sellers, including but not limited to (x) any ad valorem taxes, including real estate and personal property taxes, waste disposal assessments or other assessments for public or municipal improvements that are assessed or imposed pursuant to the Old Lease Agreements (as defined in Section 2.3(iii) below) and (y) amounts accessed under the Texas Patron Tax, occurring prior to the Closing Date, or whether related to the business of any of the Adult Cabarets, any of the Purchased Assets or otherwise and any liens on any of the Purchased Assets relating to any such taxes (collectively, the “**Excluded Liabilities**”).

Section 1.6 Taxes. The Asset Sellers shall pay when due any sales, transfer, excise, or other taxes which may be imposed in any jurisdiction in connection with or arising from the sale and transfer of any of the Purchased Assets to the Asset Purchasers.

Section 1.7 Bulk Sales Laws. The Asset Sellers acknowledge that any applicable provisions of any tax clearance or bulk sales laws pertaining to the transactions contemplated by this Agreement are being complied with and that the Asset Sellers, jointly and severally, agree to indemnify and hold harmless the Asset Purchasers from and against any and all liabilities arising out of or relating to any such tax clearance or bulk sales law. Any such liability shall be an Excluded Liability.

Section 1.8 Sale of the Common Stock and Membership Interests. Subject to the terms and conditions set forth in this Agreement, at the Closing, Foster hereby agrees to sell, transfer, convey and deliver to JAI (i) all of the shares of common stock of CAA and Sadco, free and clear of all encumbrances, which represents all of the outstanding capital stock of CAA and Sadco (the “**Common Stock**”), and (ii) all of the membership interests of JGC Beaumont and Willies, free and clear of all encumbrances, which represents all of the outstanding capital interests of JGC Beaumont and Willies (the “**Membership Interests**”); and Foster shall deliver to JAI stock certificates representing the Common Stock and membership certificates representing the Membership Interests, all duly endorsed to JAI.

Section 1.9 Purchase Price. As consideration for the purchase of the Purchased Assets, the Common Stock and the Membership Interests, JAI and the Asset Purchasers shall pay to Foster and the Asset Sellers an aggregate consideration of \$26,000,000 (the “**Purchase Price**”). The Purchase Price shall be payable at Closing, as follows:

- (i) JAI shall pay or cause to be paid \$4,000,000 by wire transfer or certified check to Foster as consideration for the Common Stock and the Membership Interests; and
- (ii) JAI and Asset Purchasers shall pay or cause to be paid \$22,000,000 to the Asset Sellers as consideration for the Purchased Assets pursuant to a promissory note (the “**Promissory Note**”) executed by JAI. The Promissory Note will bear interest at the rate of 9.5% per annum, will be payable in 144 equal monthly installments of principal and interest, will not be pre-payable in the first 60 months and, thereafter, if prepaid at the election of JAI, must be prepaid in full and will be subject to a prepayment penalty of 10% of the then outstanding principal amount of the Promissory Note.

(A) The Promissory Note will provide the Asset Sellers a right of first refusal, whereby if JAI intends to prepay the Promissory Note using proceeds from a debt financing transaction offered by a third party lender, at least 10 days prior to closing such transaction, JAI will provide the Asset Sellers and/or its affiliates the right to provide financing to JAI, within the 10 day period, in lieu of the third party lender, on the exact terms and conditions offered to JAI in the proposed transaction.

(B) The Promissory Note will be secured by the Purchased Assets (as evidenced by all appropriate UCC filings), the Common Stock of CAA and Sadco and the Membership Interests. The initial monthly payment of the Promissory Note, in the amount of \$256,602.11, shall be due 30 days after the date of Closing, with each subsequent monthly payment due thereafter. If not provided within the Promissory Note, at Closing, each of the Asset Sellers will enter into a participation agreement that will set forth each Asset Seller’s pro rata interest in the Promissory Note (as set forth in Exhibit C attached hereto) and the terms and conditions pursuant to which the designated Agent of the Promissory Note will distribute payments to each Asset Seller.

(C) The Promissory Note will contain usual and customary terms and conditions, including usual and customary default provisions. Additionally, a default under the Real Estate Note (as defined in Section 2.3 below) will be deemed to be a default under the Promissory Note.

(D) The Promissory Note will also provide that in the event any regulatory or administrative authority of the State of Texas seeks to enforce or attempts to collect any tax or obligation or liability that may be due pursuant to the Texas Patron Tax, which Texas Patron Tax was implemented by the Texas legislature, or seeks to enforce or attempts to collect any obligation or liability pursuant to any amendments or legislation passed in connection therewith relating to the obligation of any of the Asset Sellers or Adult Cabarets to make payment of the Texas Patron Tax, then the then principal amount of the Promissory Note, as of the date the tax is enforced, will immediately be reduced by an amount calculated by multiplying 1,200,000 by the dollar amount of the per-person tax implemented (the “ **Reduction Amount** ”). The Reduction Amount cannot exceed \$6,000,000. By way of example only, if exactly two years after the Closing Date, a \$2.00 per person tax is implemented and enforced, assuming JAI is current in its monthly payments, the Reduction Amount would be \$2,400,000 and the then principal amount of the Promissory Note would be reduced \$2,400,000. The Texas Patron Tax is currently enacted to be \$5 per person which would equate to a \$6,000,000 Reduction Amount if enforced. Upon adjustment, if any, of the principal amount of the Promissory Note, at the Asset Sellers election, either (i) the monthly payments from that date forward will be recalculated and adjusted based upon the recalculated and adjusted principal amount, with the number of monthly payments due thereafter remaining the same, or (ii) the amount of the monthly payments will remain at \$256,602.11, thereby reducing the number of monthly payments due thereafter (whereby each monthly installment would have a higher ratio of principal to interest). In the event the Reduction Amount exceeds the then outstanding principal amount, the Asset Sellers will have no obligation to repay to JAI the difference between such amounts. In the event the Texas Patron Tax is revised (or replaced by a similar tax) so that adult cabarets are taxed in an alternative format to the per-person tax currently contemplated, the principal amount of the Promissory Note will be equitably adjusted in a manner consistent with the intent of the Reduction Amount formula. Notwithstanding the foregoing, in the event that a new patron tax is implemented by the Texas legislature which is not the result of renegotiation or adjustment to existing legislation, but rather is a result of the existing Texas Patron Tax being ruled unconstitutional, then in such event, there will be no adjustment to the Promissory Note.

(E) The Promissory Note will also contain a partial release plan that will entitle JAI on or after 60 months from the date of Closing to have certain Purchased Assets released from Asset Sellers’ liens upon the aggregate payment of the first \$6,000,000 in principal of the Promissory Note and Real Estate Note, and thereafter upon the aggregate payment of each additional \$3,000,000 in principal of the Promissory Note and Real Estate Note until the Promissory Note and Real Estate Note are paid in full. Upon each such release benchmark, JAI and the Asset Sellers will mutually agree upon which of the Purchased Assets will be released from the Asset Sellers’ liens. For purposes of this Section 1.9(ii)(E), any Reduction Amount shall not be deemed a reduction in the principal of the Promissory Note or Real Estate Note.



## ARTICLE II CLOSING

Section 2.1 The Closing. The closing of the transactions contemplated by this Agreement shall take place five (5) business days after the Asset Purchasers have all necessary permits and authorizations which are needed to conduct an adult entertainment business at each of the Asset Seller's Adult Cabaret, including any sexually oriented business permits and licenses (the "**Closing Date**"). The Closing will take place at the law office of Axelrod, Smith & Kirshbaum, 5300 Memorial Drive, Suite 700, Houston, Texas, 77007, or at such other place as agreed upon among the parties hereto. Notwithstanding the foregoing, in the event that the Asset Purchasers have not obtained all necessary permits and authorizations which are needed to conduct an adult entertainment business at each of the Asset Seller's Adult Cabaret, including any sexually oriented business permits and licenses, or waived such obligation, by November 15, 2012, then any of the Parties hereto may terminate this Agreement by giving written notice to the other Parties as provided for in Section 10.2, and this Agreement will be of no further force or effect.

Section 2.2 Delivery and Execution. At the Closing: (i) Foster shall deliver to JAI certificates evidencing the Common Stock and the Membership Interests, free and clear of any liens, claims, equities, charges, options, rights of first refusal or encumbrances, duly endorsed to JAI or accompanied by duly executed stock powers in form and substance satisfactory to JAI against delivery by JAI to Foster of payment in the amount and manner set forth in Section 1.9(i) above; (ii) each of the Asset Sellers shall deliver to its respective Asset Purchaser (pursuant to Exhibit A) all instruments of assignment and bills of sale necessary to transfer to that Asset Purchaser good and marketable title to its respective Purchased Assets free and clear of all liens, charges or encumbrances, against delivery by the Asset Purchasers to the Asset Sellers of payment in the amount and manner set forth in Section 1.9(ii) above; and (iii) the Related Transactions (as defined below) shall be consummated concurrently with the Closing.

Section 2.3 Related Transactions. In addition to the purchase and sale of the Purchased Assets, the Common Stock and the Membership Interests, the following actions must take place contemporaneously at the Closing or with respect to Section 2.3(i), as soon as possible thereafter (collectively, the "**Related Transactions**"):

- (i) *Sale of the Real Estate Properties*. At the Closing, or as soon thereafter as possible, the Real Estate Sellers shall sell, transfer, convey and deliver by Special Warranty Deed, which will convey good and marketable title to the Real Estate Properties to JHI, free and clear of liens, claims and encumbrances, except as provided for below. As consideration for the purchase of the Real Estate Properties, JHI shall pay to the Real Estate Sellers (x) \$350,000 cash, at Closing, (y) \$9,000,000 pursuant to a Secured Promissory Note (the "**Real Estate Note**") executed by and obligating JHI, and (z) 12 years from the date of Closing, a one time payment of \$650,000, provided however, that in the event that the Promissory Note and the Real Estate Note are both prepaid in full, then the \$650,000 one time payment will accelerate and become due and payable within 30 days of the final payment of the Promissory Note and the Real Estate Note. The Real Estate Note will bear interest at the rate of 9.5% per annum, will be payable in 144 equal monthly installments of principal and interest, will not be pre-payable in the first 60 months and, thereafter, if prepaid at the election of the JHI, must be prepaid in full and will be subject to a prepayment penalty of 10% of the then outstanding principal amount of the Real Estate Note. Notwithstanding the foregoing, in the event that the Real Estate Properties are not conveyed to JHI as of the Closing Date, then the Real Estate Sellers and JHI will enter into a master lease agreement ("**Master Lease**") for all of the Real Estate Properties, as of the Closing Date, which will provide for the payment of monthly rent in an amount equal to the monthly payments which would otherwise have been due under the Real Estate Note (\$104,973.59). Upon the closing of the Real Estate Properties, the Real Estate Note will be adjusted to provide that the monthly payments previously made pursuant to the Master Lease will be a reduction to the Real Estate Note as if a payment had been made pursuant to the Real Estate Note.

(A) The Real Estate Note will provide the Real Estate Sellers a right of first refusal, whereby if JHI intends to prepay the Real Estate Note using proceeds from a debt financing transaction offered by a third party lender, at least 10 days prior to closing such transaction, JHI will provide the Real Estate Sellers and/or its affiliates the right to provide financing to JHI within the 10 day period, in lieu of the third party lender on the exact terms and conditions offered to JHI in the proposed transaction.

(B) The Real Estate Note will be secured by the Real Estate Properties. The initial monthly payment of the Real Estate Note in the amount of \$104,973.59, shall be due 30 days after the date of Closing, with each subsequent monthly payment due thereafter. If not provided within the Real Estate Note, at Closing, each of the Real Estate Sellers will enter into a participation agreement that will set forth each Real Estate Seller's pro rata interest in the Real Estate Note and the terms and conditions pursuant to which the designated Agent of the Real Estate Note will distribute payments to each Real Estate Seller.

(C) The Real Estate Note will contain usual and customary terms and conditions, including usual and customary default provisions. Additionally, a default under the Promissory Note will be deemed to be a default under the Real Estate Note.

(D) The Real Estate Note will also contain a partial release plan that will entitle JHI on or after 60 months, to have certain Real Estate Properties released from Real Estate Sellers' liens upon the aggregate payment of the first \$6,000,000 in principal of the Promissory Note and Real Estate Note, and thereafter upon the aggregate payment of each additional \$3,000,000 in principal of the Promissory Note and Real Estate Note, until the Promissory Note and Real Estate Note are paid in full. Upon each such release benchmark, JHI and the Real Estate Sellers will mutually agree upon which of the Real Estate Properties will be released from the Real Estate Sellers' liens. For purposes of this Section 2.3(i)(D), any Reduction Amount shall not be deemed a reduction in the principal of the Promissory Note or Real Estate Note.

(E) Upon the execution hereof, the Real Estate Sellers and JHI shall execute a Real Estate Purchase Agreement, which will provide for the terms and conditions for the conveyance of good and marketable title of the Real Estate Properties, which Real Estate Purchase Agreement will be submitted to a title company mutually acceptable to the Real Estate Sellers and JHI.

- (ii) *Covenant Not to Compete for Foster* . As partial consideration for JAI entering into this Agreement, Foster will enter into a five year Non-Competition Agreement pursuant to the terms of which Foster will agree not to compete, either directly or indirectly, with JAI, the Asset Purchasers, or any of their affiliates (including Rick's Cabaret and its subsidiaries), by owning an interest in, participating in or operating an establishment featuring live female nude or semi-nude (topless) adult entertainment in a radius of 50 miles of the location of any of the Adult Cabarets or any adult cabaret featuring live female nude or semi-nude (topless) adult entertainment owned by Rick's Cabaret or its subsidiaries, excluding the adult cabaret located at 11327 Reeder Road, Dallas, Texas, 75229; and
- (iii) *Termination of Old Lease Agreements* . Each of the Real Estate Sellers will enter into a Termination Agreement pursuant to the terms of which any outstanding lease agreements relating to the Real Estate Properties (the “ **Old Lease Agreements** ”) will be terminated; and
- (iv) JAI shall grant Big Dog Printing Company, an affiliate of Foster, the right of first refusal to contract to supply all t-shirts to be sold at any of the Adult Cabarets purchased by JAI pursuant to this Agreement.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF FOSTER, THE ASSET SELLERS AND THE COMPANIES**

Foster, each of the Asset Sellers and each of the Companies, jointly and severally, hereby make the following representations and warranties to JAI and the Asset Purchasers, which representations and warranties shall be true and correct on the date hereof and on and as of the Closing Date:

#### Section 3.1. Organization, Good Standing Qualification and Ownership.

(a) Each of Gold Suit, Inc., CAA and Sadco (i) is a Texas corporation duly organized, validly existing and in good standing under the laws of the state of Texas, (ii) has all requisite power and authority to carry on its business, and (iii) is duly qualified to transact business and is in good standing in all jurisdictions where its ownership, lease or operation of property or the conduct of its business requires such qualification, except where the failure to do so would not have a material adverse effect to Foster, the Asset Purchasers, the Companies or the Asset Sellers.

(b) Each of the Asset Sellers (except for Gold Suit, Inc.) and each of JGC Beaumont and Willies (i) is a Texas limited liability company duly organized, validly existing and in good standing under the laws of the state of Texas, (ii) has all requisite power and authority to carry on its business, and (iii) is duly qualified to transact business and is in good standing in all jurisdictions where its ownership, lease or operation of property or the conduct of its business requires such qualification, except where the failure to do so would not have a material adverse effect to Foster, the Asset Purchasers, the Companies or the Asset Sellers.

(c) At Closing, (i) the authorized capital stock of CAA consists of \_\_\_\_\_ shares of common stock, \$\_\_\_\_\_ par value, of which \_\_\_\_\_ shares are validly issued and outstanding, (ii) the authorized capital stock of Sadco consists of \_\_\_\_\_ shares of common stock, \$\_\_\_\_\_ par value, of which \_\_\_\_\_ shares are validly issued and outstanding, and (iii) the authorized capital stock of Gold Suit, Inc. consists of \_\_\_\_\_ shares of common stock, \$\_\_\_\_\_ par value, of which \_\_\_\_\_ shares are validly issued and outstanding. There are no shares of preferred stock authorized or issued and there is no other class of capital stock authorized or issued by either Gold Suit, Inc., CAA or Sadco. All of the issued and outstanding shares of common stock of Gold Suit, Inc., CAA and Sadco are owned beneficially and of record by Foster, free and clear of any liens, claims, equities, charges, options, rights of first refusal, or encumbrances, and are fully paid and non-assessable. None of the Common Stock issued is in violation of any preemptive rights. Neither Gold Suit, Inc., CAA nor Sadco has an obligation to repurchase, reacquire, or redeem any of its outstanding capital stock. There are no outstanding securities convertible into or evidencing the right to purchase or subscribe for any shares of capital stock of either Gold Suit, Inc., CAA or Sadco, there are no outstanding or authorized options, warrants, calls, subscriptions, rights, commitments or any other agreements of any character obligating either Gold Suit, Inc., CAA or Sadco to issue any shares of its capital stock or any securities convertible into or evidencing the right to purchase or subscribe for any shares of such stock, and there are no agreements or understandings with respect to the voting, sale, transfer or registration of any shares of capital stock of either Gold Suit, Inc., CAA or Sadco.

(d) At Closing, the authorized capital of each of the Asset Sellers (for purposes of this Section 3.1(d) only, the defined term "Asset Sellers" excludes Gold Suit, Inc.) and each of JGC Beaumont and Willies consists of one membership interest which is validly issued and outstanding. There is no other class of equity interest authorized or issued by either JGC Beaumont, Willies or any of the Asset Sellers. All of the issued and outstanding membership interests of each of the Asset Sellers and each of JGC Beaumont and Willies are owned beneficially and of record by Foster, free and clear of any liens, claims, equities, charges, options, rights of first refusal, or encumbrances, and are fully paid and non-assessable. None of the Membership Interests issued are in violation of any preemptive rights. Neither of the Asset Sellers and neither JGC Beaumont nor Willies has any obligation to repurchase, reacquire, or redeem any of its outstanding membership interests. There are no outstanding securities convertible into or evidencing the right to purchase or subscribe for any membership interests of either JGC Beaumont, Willies or any of the Asset Sellers. There are no outstanding or authorized options, warrants, calls, subscriptions, rights, commitments or any other agreements of any character obligating either JGC Beaumont, Willies or any of the Asset Sellers to issue any membership interest or any securities convertible into or evidencing the right to purchase or subscribe for any membership interest, and there are no agreements or understandings with respect to the voting, sale, transfer or registration of any membership interests of either JGC Beaumont, Willies or any of the Asset Sellers.

Section 3.2 Subsidiaries . None of the Asset Sellers and none of the Companies has any subsidiaries.

Section 3.3 Ownership of the Purchased Assets. Each of the Asset Sellers owns all of the Purchased Assets (with respect to it) set forth in Section 1.1 herein (and reflected in Exhibit 1.2) free and clear of any liens, claims, equities, charges, options, rights of first refusal, or encumbrances. Each of the Asset Sellers has the unrestricted right and power to transfer, convey and deliver full ownership of its Purchased Assets without the consent or agreement of any other entity or person and without any designation, declaration or filing with any governmental authority. Upon the transfer of the Purchased Assets to the Asset Purchasers as contemplated herein, each of the Asset Purchasers will receive good and valid title thereto, free and clear of any liens, claims, equities, charges, options, rights of first refusal, encumbrances or other restrictions.

Section 3.4 Authorization .

(a) All corporate/company action on the part of each of the each of the Asset Sellers and each of the Companies necessary for the authorization, execution, delivery and performance of this Agreement by each of the Asset Sellers and each of the Companies has been taken or will be taken prior to the Closing. Each of the Asset Sellers and each of the Companies have the requisite corporate/company power and authority to execute, deliver and perform this Agreement. This Agreement, when duly executed and delivered in accordance with its terms, will constitute a valid and binding obligation of each of the Asset Sellers and each of the Companies, enforceable against each in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, and other similar laws of general application relating to or affecting creditors' rights and to general equitable principles.

(b) Foster represents that he is a person of full age of majority, with full power, capacity, and authority to enter into this Agreement and perform the obligations contemplated hereby by and for himself and his spouse. All action on the part of Foster necessary for the authorization, execution, delivery and performance of this Agreement by him has been taken, or will be taken by him prior to the Closing Date. This Agreement, when duly executed and delivered in accordance with its terms, will constitute legal, valid and binding obligations of Foster enforceable against him in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization and other similar laws of general application affecting creditors' rights generally or by general equitable principles.

Section 3.5 No Breaches or Defaults . The execution, delivery, and performance of this Agreement by each of the Asset Sellers and each of the Companies does not: (i) conflict with, violate, or constitute a breach of or a default under any other outstanding agreements or the charter or bylaws of any of the Asset Sellers or Companies, (ii) result in the creation or imposition of any lien, claim, or encumbrance of any kind upon any of the Purchased Assets or any of the Membership Interests or Common Stock, or (iii) require any authorization, consent, approval, exemption, or other action by or filing with any third party or Governmental Authority under any provision of: (a) any applicable Legal Requirement, or (b) any credit or loan agreement, promissory note, or any other agreement or instrument to which Foster or any of the Asset Sellers or Companies is a party or by which any of the Purchased Assets or any of the Membership Interests or Common Stock may be bound or affected. For purposes of this Agreement, " **Governmental Authority** " means any foreign governmental authority, the United States of America, any state of the United States, and any political subdivision of any of the foregoing, and any agency, department, commission, board, bureau, court, or similar entity, having jurisdiction over the parties hereto or their respective assets or properties. For purposes of this Agreement, " **Legal Requirement** " means any law, statute, injunction, decree, order or judgment (or interpretation of any of the foregoing) of, and the terms of any license or permit issued by, any Governmental Authority.

Section 3.6 Consents . No permit, consent, approval or authorization of, or designation, declaration or filing with, any Governmental Authority or any other person or entity is required on the part of Foster or any of the Asset Sellers or Companies in connection with the execution and delivery by Foster or any of the Asset Sellers or Companies of this Agreement or the consummation and performance of the transactions contemplated hereby.

Section 3.7 Pending Claims . Except as set forth in Exhibit 3.7, there is no claim, suit, arbitration, investigation, action, litigation or other proceeding, whether judicial, administrative or otherwise, now pending or, to Foster's or any of the Asset Sellers' or Companies' knowledge, contemplated or threatened against Foster or any of the Asset Sellers or Companies before any court, arbitration, administrative or regulatory body or any governmental agency which may result in any judgment, order, award, decree, liability or other determination which will or could reasonably be expected to have any material effect upon Foster or any of the Asset Sellers or Companies or the transfer by Foster to JAI of the Membership Interests and Common Stock or the transfer by the Asset Sellers to the Asset Purchasers of the Purchased Assets, under this Agreement, nor is there any basis known to Foster or any of the Asset Sellers or Companies for any such action. No litigation is pending, or, to Foster's or any of the Asset Sellers' or Companies' knowledge, threatened against Foster or any of the Asset Sellers or Companies, or their assets or properties which seeks to restrain or enjoin the execution and delivery of this Agreement or any of the documents referred to herein or the consummation of any of the transactions contemplated thereby or hereby. Neither Foster nor any of the Asset Sellers or Companies is subject to any judicial injunction or mandate or any quasi-judicial or administrative order or restriction directed to or against them or which would affect any of the Asset Sellers or Companies or any of the Purchased Assets or any of the Common Stock or Membership Interests to be transferred under this Agreement, except for litigation involving the Texas Patron Tax.

Section 3.8 Taxes . Each of the Asset Sellers and each of the Companies has timely and accurately prepared and filed all federal, state, foreign and local tax returns and reports required to be filed prior to such dates and have timely paid all taxes shown on such returns as owed for the periods of such returns, including all sales taxes and withholding or other payroll related taxes shown on such returns. None of the Asset Sellers and none of the Companies is delinquent in the payment of any tax or governmental charge of any nature. Foster has no knowledge of any liability for any tax to be imposed by any taxing authorities as of the date of this Agreement and as of the Closing that is not adequately provided for. No assessments or notices of deficiency or other communications have been received by Foster or any of the Asset Sellers or the Companies with respect to any tax return which has not been paid, discharged or fully reserved against and no amendments or applications for refund have been filed or are planned with respect to any such return. None of the federal, state, foreign and local tax returns of any of the Asset Sellers or the Companies has been audited by any taxing authority. Foster has no knowledge of any additional assessments, adjustments or contingent tax liability (whether federal or state) of any nature whatsoever, whether pending or threatened against any of the Companies for any period, nor of any basis for any such assessment, adjustment or contingency. There are no agreements between any of the Asset Sellers or the Companies and any taxing authority, including, without limitation, the Internal Revenue Service, waiving or extending any statute of limitations with respect to any tax return, except for the Texas Patron Tax.

Section 3.9 Financial Statements . Foster and each of the Asset Sellers and each of the Companies, respectively, has or will deliver to JAI the unaudited balance sheets of each of the Asset Sellers and each of the Companies as of June 30, 2012, together with the related unaudited statements of income, for the periods then ended (collectively referred to as the “ **Financial Statements** ”). Such Financial Statements, including the related notes, are in accordance with the books and records of each of the Asset Sellers and each of the Companies and fairly represent the financial position of each of the Asset Sellers and each of the Companies and the results of operations and changes in financial position of each of the Asset Sellers and each of the Companies as of the dates and for the periods indicated, in each case in conformity with generally accepted accounting principles applied on a consistent basis. Except as, and to the extent reflected or reserved against in the Financial Statements, each of the Asset Sellers and each of the Companies, as of the date of the Financial Statements, has no material liability or obligation of any nature, whether absolute, accrued, continued or otherwise, not fully reflected or reserved against in the Financial Statements.

Section 3.10 No Material Adverse Change . Since the dates of the Financial Statements, each of the Asset Sellers and each of the Companies has conducted its business in the ordinary course, consistent with past practice, and there has been no (i) change that has had or would reasonably be expected to have a material adverse effect upon the assets, properties or business or the financial condition or other operations of any of the Asset Sellers or Companies; (ii) acquisition or disposition of any material asset by any of the Asset Sellers or any of the Companies or any contract or arrangement therefore, otherwise than for fair value in the ordinary course of business; (iii) material change in any of the Asset Sellers’ or any of the Companies’ accounting principles, practices or methods; (iv) incurrence of any indebtedness or lending of money to any person or entity involving more than \$5,000; (v) acceleration, termination, modification or cancellation or any agreement, contract, lease or license (or series of related agreements, contracts, leases or licenses) involving more than \$5,000, either individually or in the aggregate to which any of the Asset Sellers or any of the Companies is a party; or (vi) delay or postponement in the payment of any accounts payable or other liabilities.

Section 3.11 Labor Matters . None of the Asset Sellers and none of the Companies is a party or otherwise subject to any collective bargaining agreement with any labor union or association. There are no discussions, negotiations, demands or proposals that are pending or have been conducted or made with or by any labor union or association, and there are not pending or threatened against any of the Asset Sellers or Companies any labor disputes, strikes or work stoppages. To the best of Foster’s and each of the Asset Sellers’ and each of the Companies’ knowledge, each of the Asset Sellers and each of the Companies is in compliance with all federal and state laws respecting employment and employment practices, terms and conditions of employment and wages and hours, and, to their knowledge, is not engaged in any unfair labor practices. Neither Foster nor any of the Asset Sellers or Companies is aware of any claim of alleged misclassification of entertainers as independent contractors by any individual or government agency. None of the Asset Sellers or Companies is a party to any written or oral contract, agreement or understanding for the employment of any officer, director or employee of any of the Asset Sellers or Companies.

Section 3.12 Compliance with Laws. Each of the Asset Sellers and each of the Companies is, and at all times prior to the date hereof has been in compliance with all statutes, orders, rules, ordinances and regulations applicable to it or to the ownership of its assets or the operation of its businesses, except for failures to be in compliance that would not have a material adverse effect on the business, properties, condition (financial or otherwise) or prospects of such company. Neither Foster nor any of the Asset Sellers or Companies has any basis to expect, nor has it received, any order or notice of any such violation or claim of violation of any such statute, order, rule, ordinance or regulation by such company. Exhibit 3.12 sets forth all licenses and permits held by each of the Asset Sellers and each of the Companies used in the operation of its businesses, all of which are in good standing and in effect as of the Closing Date. These licenses and permits represent all of the licenses and permits required by each of the Asset Sellers and each of the Companies for the operation of its business.

Section 3.13 No Conflicts. The execution and delivery of this Agreement by the Asset Sellers and each of the Companies does not, and the performance and consummation of the transactions contemplated hereby by the Asset Sellers and the Companies, will not (i) conflict with the Articles of Incorporation or Organization or Regulations of the Asset Sellers or the Companies, as appropriate; (ii) conflict with or result in a breach or violation of, or default under, or give rise to any right of acceleration or termination of, any of the terms, conditions or provisions of any note, bond, lease, license, agreement or other instrument or obligation to which the Asset Sellers or the Companies is a party or by which the Asset Sellers or the Companies assets or properties are bound; or (iii) result in the creation of any encumbrance on any of the assets or properties of the Asset Sellers or the Companies.

Section 3.14 Title to Properties; Encumbrances. Each of the Asset Sellers has good and marketable title to all of the Purchased Assets set forth in Section 1.1 herein, and each of the Companies has good and marketable title to all of its properties and assets, real and personal, tangible and intangible, that are material to the condition (financial or otherwise), business, operations or prospects of such company, free and clear of all mortgages, claims, liens, security interests, charges, leases, encumbrances and other restrictions of any kind and nature, except (i) as disclosed in the Financial Statements of the Asset Sellers and Companies, (ii) statutory liens not yet delinquent, and (iii) such liens consisting of zoning or planning restrictions, imperfections of title, easements and encumbrances, if any, as do not materially detract from the value or materially interfere with the present use of the property or assets subject thereto or affected thereby. At the time of Closing, the assets of each of the Companies will include, but will not be limited to, the assets set forth in each of the Companies' 2011 corporate income tax return, along with all equipment and fixtures located on the premises of the Adult Cabaret of that Asset Seller or Company as of the Closing Date.

Section 3.15 No Liabilities. As of the Closing Date, each of the Asset Sellers and each of the Companies does not and will not have any obligation or liability (contingent or otherwise) or unpaid bill to any third party except as expressly set forth herein in Exhibit 3.15 and Article VIII.

Section 3.16 Contracts and Leases. Except as disclosed on Exhibit 3.16, each of the Asset Sellers and each of the Companies does not (i) have any leases of personal property relating to the assets of such company, whether as lessor or lessee and (ii) have any contractual or other obligations relating to the assets of such company, whether written or oral. None of any of the Asset Sellers or Companies has given any power of attorney to any person or organization for any purpose relating to the business or assets of such company. Each of the Asset Sellers and each of the Companies shall provide to JAI prior to Closing each and every contract, lease or other document relating to its assets to which it is subject or is a party or a beneficiary. To Foster's, the Asset Sellers' and the Companies' knowledge, such contracts, leases or other documents are valid and in full force and effect according to their terms and constitute legal, valid and binding obligations of such company and the other respective parties thereto and are enforceable in accordance with their terms. Foster, the Asset Sellers and the Companies have no knowledge of any default or breach under such contracts, leases or other documents or of any pending or threatened claims under any such contracts, leases or other documents. Neither the execution of this Agreement, nor the consummation of all or any of the transactions contemplated under this Agreement, will constitute a breach or default under any such contracts, leases or other documents which would have a material adverse effect on the financial condition of any of the Asset Sellers or any of the Companies or the operation of any of the Adult Cabarets after Closing.



Section 3.17 No Pending Transactions. Except for the transactions contemplated by this Agreement and the Related Transactions contemplated in Section 2.3 herein, neither Foster nor any of the Asset Sellers or Companies is a party to or bound by or the subject of any agreement, undertaking, commitment or discussions or negotiations with any person that could result in: (i) the sale, merger, consolidation or recapitalization of any of the Asset Sellers or Companies; (ii) the sale of any of the assets of any of the Asset Sellers or Companies; (iii) the sale of any outstanding capital stock or other securities of any of the Asset Sellers or any of the Companies; (iv) the acquisition by any of the Asset Sellers or Companies of any operating business or the capital stock of any other person or entity; (v) the borrowing of money; (vi) any agreement with any of the respective officers, managers or affiliates of any of the Asset Sellers or Companies; or (vii) the expenditure of more than \$5,000, in the aggregate, or the performance by any of the Asset Sellers or Companies extending for a period more than one year from the date hereof, other than in the ordinary course of business.

Section 3.18 Material Agreements; Action. Except for the transactions contemplated by this Agreement and the Related Transactions contemplated in Section 2.3 herein, there are no material contracts, agreements, commitments, understandings or proposed transactions, whether written or oral, to which Foster or any of the Asset Sellers or Companies is a party or by which he or it is bound that involve or relate to (i) any of the respective officers, directors or stockholders of any of the Asset Sellers or Companies or (ii) covenants of Foster or any of the Asset Sellers or Companies not to compete in any line of business or with any person in any geographical area or covenants of any other person not to compete with any of the Asset Sellers or Companies in any line of business or in any geographical area.

Section 3.19 Insurance Policies. Copies of all insurance policies maintained by each of the Asset Sellers and each of the Companies will be delivered to JAI prior to Closing. The policies of insurance held by any of the Asset Sellers or Companies are in such amounts, and insure against such losses and risks, as each of the Asset Sellers and each of the Companies reasonably deems appropriate for its property and business operations. All such insurance policies are in full force and effect, and all premiums due thereon have been paid. Valid policies for such insurance will be outstanding and duly in force at all times prior to the Closing.

Section 3.20 No Default. Neither Foster nor any of the Asset Sellers or Companies is in default under any term or condition of any instrument evidencing, creating or securing any indebtedness of any of the Asset Sellers or Companies, and there has been no default in any material obligation to be performed by Foster or any of the Asset Sellers or Companies under any other contract, lease, agreement, commitment or undertaking to which any of the Asset Sellers or Companies is a party or by which it or its assets or properties are bound, nor has Foster or any of the Asset Sellers or Companies waived any material right under any such contract, lease, agreement, commitment or undertaking.

Section 3.21 Books and Records. The books of account, minute books, stock record books and other records of each of the Asset Sellers and each of the Companies, all of which will be made available to the JAI prior to Closing, are and will be accurate and complete and have been maintained in accordance with sound business practices. Upon Closing, all books and records of the Companies will be in the possession of JAI.

Section 3.22 Banks and Brokerage Accounts. Exhibit 3.22 sets forth (a) a true and complete list of the names and locations of all banks, trust companies, securities brokers and other financial institutions at which any of the Companies has an account or safe deposit box or maintains a banking, custodial, trading or other similar relationship, and (b) a true and complete list and description of each such account, box and relationship, indicating in each case the account number and the names of the respective officers, employees, agents or other similar representatives having signatory power with respect thereto.

Section 3.23 Environmental. To the best of Foster's, the Asset Sellers' and the Companies' knowledge, the none of the premises where the Adult Cabarets are located is in violation of any state, local or federal statutes, laws, regulations, ordinances or rules pertaining to health or the environment requirements affecting such premises. Neither Foster nor any of the Asset Sellers or Companies has received any citation, directive, letter or other communication, written or oral, or any notice of any proceeding, claim or lawsuit relating to any environmental issue arising out of the ownership or occupation of the premises of the any of the Adult Cabarets, and there is no basis known to Foster, or any of the Asset Sellers or Companies for any such action.

Section 3.24 Notices. Neither Foster nor any of the Asset Sellers or Companies or any representative of such have received any written notice (i) from any insurance companies, governmental agencies or from any other parties of any condition, defects or inadequacies with respect to the premises of the any of the Adult Cabarets, which, if not corrected, would result in termination of insurance coverage or increase its cost, (ii) from any governmental agencies or any other third parties with respect to any violations of any building codes and/or zoning ordinances or any other governmental laws, regulations or orders affecting such premises, including, without limitation, the Americans With Disabilities Act, (iii) of any pending or threatened condemnation proceedings with respect to such premises, or (iv) of any proceedings which could or would cause the change, redefinition or other modification of the zoning classification of such premises.

Section 3.25 Proceedings Relating to the Adult Cabaret Premises. Except as set forth in Exhibit 3.25, there is no pending, or to the best knowledge of Foster or any of the Asset Sellers or Companies or any representative of Foster or any of the Asset Sellers or Companies, contemplated or threatened judicial, municipal or administrative proceedings with respect to, or in any manner affecting the premises of any of the Adult Cabarets or any portion thereof, including, without limitation, proceedings for or involving tenant evictions, collections, condemnations, eminent domain, alleged building code or zoning violations, personal injuries or property damage alleged to have occurred on such premises or by reason of the use and operation of the premises, or written notice of any attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws pending or threatened against Foster or any of the Asset Sellers or Companies or the premises of any of the Adult Cabarets itself, or the taking of such premises for public needs.

Section 3.26 Public Improvements . Neither Foster nor any of the Asset Sellers or Companies, nor any representative of Foster or any of the Asset Sellers or Companies has knowledge of any existing or proposed public improvements which involve or which may result in any charge being levied or assessed against the premises of any of the Asset Sellers or Companies or which will or could result in the creation of any lien upon the premises of any of the Asset Sellers or Companies or any part thereof.

Section 3.27 Certificates . To the best knowledge of Foster and each of the Asset Sellers and each of the Companies, and any representative of any such parties, all certificates of occupancy, licenses, permits, authorizations and approvals required by law or by any governmental authority having jurisdiction over the premises of any of the Asset Sellers or Companies have been obtained and are in full force and effect, including any licenses or permits required for the operation and conduct of a sexually oriented business on the premises and the sale of liquor at JGC Phoenix, LLC and Willie's.

Section 3.28 Material Defect . To the best knowledge of Foster and each of the Asset Sellers and each of the Companies, and any representative of such parties, there are no material defects to the premises of the any of the Asset Sellers or Companies which have not been disclosed in writing to JAI.

Section 3.29 Flooding . To the best knowledge of Foster, each of the Asset Sellers and each of the Companies, and any representative of such parties, no flooding has occurred on the premises of any of the Asset Sellers or Companies.

Section 3.30 Necessary Permits and Licenses . Except for any sexually oriented business licenses or necessary liquor licenses for Willie's and JGC Phoenix, LLC, there are no other specialized licenses or permits required to allow JAI and/or the Asset Purchasers to operate, conduct and manage their business in a manner identical to the operation, conduct and management presently conducted on the premises of each of the Adult Cabarets.

Section 3.31 Disclosure . No representation or warranty of Foster or any of the Asset Seller or Companies contained in this Agreement (including the exhibits hereto) contains any untrue statement or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

Section 3.32 Employee Benefit Plans . None of the Asset Sellers or Companies is a party to any employee-benefit plan.

Section 3.33 Brokerage Commission . No broker or finder has acted on behalf of Foster or any of the Asset Sellers or Companies in connection with this Agreement or the transactions contemplated hereby and no person is entitled to any brokerage or finder's fee or compensation in respect thereto based in any way on agreements, arrangements or understandings made by or on behalf of Foster or any of the Asset Sellers or Companies.

**ARTICLE IV  
REPRESENTATIONS AND WARRANTIES  
OF JAI**

JAI hereby make the following representations and warranties to Foster, the Asset Sellers and the Companies, which representations and warranties shall be true and correct on the date hereof and on and as of the Closing Date

Section 4.1 Organization, Good Standing and Qualification . JAI (i) is an entity duly organized, validly existing and in good standing under the laws of the state of Texas, (ii) has all requisite power and authority to carry on its business, and (iii) is duly qualified to transact business and is in good standing in all jurisdictions where its ownership, lease or operation of property or the conduct of its business requires such qualification, except where the failure to do so would not have a material adverse effect to JAI or the Asset Purchasers.

Section 4.2 Authorization . All corporate action on the part of JAI necessary for the authorization, execution, delivery and performance of this Agreement by it has been taken or will be taken prior to Closing. JAI has the requisite corporate power and authority to execute, deliver and perform this Agreement. This Agreement, when duly executed and delivered in accordance with its terms, will constitute legal, valid, and binding obligations of JAI enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency, and other similar laws affecting creditors' rights generally or by general equitable principles.

Section 4.3 Organization of Subsidiaries .

(a) Immediately prior to the Closing Date, JAI will organize and form, as wholly owned subsidiaries, the Asset Purchasers as set forth in Exhibit A and will take all necessary steps and actions to ensure that each of the Asset Purchasers have taken all necessary corporate action to perform the obligations pursuant to this Agreement; and

(b) At Closing, each of the Asset Purchasers will be (i) a Texas corporation duly organized, validly existing and in good standing under the laws of the state of Texas, (ii) will have all requisite power and authority to carry on its business, and (iii) will be duly qualified to transact business and will be in good standing in all jurisdictions where its ownership, lease or operation of property or the conduct of its business requires such qualification, except where the failure to do so would not have a material adverse effect to JAI or the Asset Purchasers.

Section 4.4 No Breaches or Defaults . The execution, delivery, and performance of this Agreement by JAI does not: (i) conflict with, violate, or constitute a breach of or a default under or (ii) require any authorization, consent, approval, exemption, or other action by or filing with any third party or Governmental Authority under any provision of: (a) any applicable Legal Requirement, or (b) any credit or loan agreement, promissory note, or any other agreement or instrument to which JAI is a party.

Section 4.5 Consents . No permit, consent, approval or authorization of, or designation, declaration or filing with, any Governmental Authority or any other person or entity is required on the part of either of JAI in connection with the execution and delivery of this Agreement or the consummation and performance of the transactions contemplated hereby other than as required under the federal securities laws.

Section 4.6 Disclosure . No representation or warranty of JAI contained in this Agreement (including the exhibits hereto) contains any untrue statement or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

Section 4.7 Brokerage Commission . No broker or finder has acted on behalf of JAI in connection with this Agreement or the transactions contemplated hereby.

**ARTICLE V**  
**COVENANTS OF FOSTER**  
**THE ASSET SELLERS AND THE COMPANIES**

Section 5.1 Stand Still . To induce JAI to proceed with this Agreement, Foster and each of the Companies and Asset Sellers agree that until the Closing Date or the termination of this Agreement, neither Foster or any representative of any of the Companies, Asset Sellers or Foster will offer to sell or solicit any offer to purchase or engage in any discussions or activities of any nature whatsoever, directly or indirectly, involving in any manner the actual or potential sale, transfer, encumbrance, pledge, collateralization or hypothecation of any ownership interest in or assets of any of the Companies or Asset Sellers. Foster and each of the Companies and the Asset Sellers hereby agree to advise JAI of any contact from any third party regarding the acquisition or other investment in any of the Companies or Asset Sellers, or of any contact which would relate to the transactions contemplated by this Agreement.

Section 5.2 Access; Due Diligence . Between the date of this Agreement and the Closing Date (the “ **Due Diligence Period** ”), Foster shall cause each of the Companies and the Asset Sellers to (a) provide JAI and their authorized representatives reasonable access to all its clubs, offices, warehouse and other facilities and properties, and to its books and records; (b) permit JAI to make inspections thereof; and (c) cause its officers and advisors to furnish JAI with such financial and operating data and other information with respect to its business and properties and to discuss with JAI and their authorized representatives its affairs as JAI may from time to time reasonably request.

Section 5.3 Conduct of Business . From the date of the execution hereof until the Closing Date, each of the Companies and Asset Sellers shall operate itself and the Adult Cabarets in the ordinary course consistent with past practices, and:

- (a) None of the Companies or Asset Sellers will authorize, declare, pay or effect any dividends or liquidate or distribute any common stock or other equity interest or undertake any direct or indirect redemption, purchase or other acquisition of any equity interest;
- (b) None of the Companies or Asset Sellers will make any changes in its condition (financial or otherwise), liabilities, assets, or business or in any of its business relationships, including relationships with suppliers or customers, that, when considered individually or in the aggregate, might reasonably be expected to have a material adverse effect on it;

- (c) None of the Companies or Asset Sellers will increase the salary or other compensation payable or to become payable by it to any employee, or the declaration, payment, or commitment or obligation of any kind for the payment by it of a bonus or other additional salary or compensation to any such person except in the normal course of business, consistent with its past practices;
- (d) None of the Companies or Asset Sellers will sell, lease, transfer or assign any of their assets, tangible or intangible, other than inventory for a fair consideration, in the ordinary course of business;
- (e) None of the Companies or Asset Sellers will accelerate, terminate, modify or cancel any agreement, contract, lease or license (or series of related agreements, contracts, leases and licenses) involving more than \$5,000, either individually or in the aggregate, to which it is a party, absent the consent of JAI;
- (f) None of the Companies or Asset Sellers will make any loans to any person or entity, or guarantee any loan, absent the consent of JAI;
- (g) None of the Companies or Asset Sellers will waive or release any right or claim held by it, absent the consent of JAI;
- (h) Each of the Companies and the Asset Sellers will operate its business in the ordinary course and consistent with past practices so as to preserve its business organization intact, to retain the services of their employees and to preserve their goodwill and relationships with suppliers, creditors, customers, and others having business relationships with them;
- (i) None of the Companies or Asset Sellers will issue any note, bond or other debt security or create, incur or assume, or guarantee any indebtedness for borrowed money or capitalized lease obligations;
- (j) None of the Companies or Asset Sellers will delay or postpone the payment of accounts payable and other liabilities outside the ordinary course of business;
- (k) None of the Companies or Asset Sellers will make any loan to, enter into an employment agreement with, or enter into any other transaction with, any of its directors, officers, and employees;
- (l) None of the Companies or Asset Sellers will make any change in any method, practice, or principle of accounting involving its business or assets;
- (m) None of the Companies or Asset Sellers will issue, sell or otherwise dispose of any of its capital stock or create, sell or dispose of any options, rights, conversion rights or other agreements or commitments of any kind relating to the issuance, sale or disposition of any of its equity interests;

- (n) None of the Companies or Asset Sellers will reclassify, split up or otherwise change any of its common stock or capital structure;
- (o) None of the Companies or Asset Sellers will be a party to any merger, consolidation or other business combination; and
- (p) Each of the Companies and Asset Sellers shall perform in all material respects all of its obligations under material contracts, leases and other documents relating to or affecting any of its assets, property or its business or the business of the Adult Cabarets.

**ARTICLE VI  
CONDITIONS TO CLOSING OF  
FOSTER, THE ASSET SELLERS AND THE COMPANIES**

Each obligation of Foster and each of the Asset Sellers and Companies to be performed on the Closing Date shall be subject to the satisfaction of each of the conditions stated in this Article VI, except to the extent that such satisfaction is waived by Foster, the Asset Sellers and the Companies in writing:

Section 6.1 Representations and Warranties Correct. The representations and warranties made by JAI contained in this Agreement will be true and correct as of the Closing Date.

Section 6.2 Covenants. All covenants, agreements and conditions contained in this Agreement to be performed by JAI or the Asset Purchasers on or prior to the Closing Date will have been performed or complied with in all respects.

Section 6.3 Delivery of Certificate. JAI shall provide to Foster, the Asset Sellers and the Companies certificates, dated the Closing Date and signed by the President of JAI, to the effect set forth in Section 6.1 and 6.2 for the purpose of verifying the accuracy of such representations and warranties and the performance and satisfaction of such covenants and conditions.

Section 6.4 Payment of Purchase Price. JAI and the Asset Purchasers shall have tendered the Purchase Price as referenced in Section 1.9 to Foster and the Asset Sellers concurrently with the Closing.

Section 6.5 Related Transactions. The Related Transactions set forth in Section 2.3 will be consummated concurrently with the Closing.

Section 6.6 Corporate Resolutions. JAI and each of the Asset Purchasers shall provide corporate resolutions of the Board of Directors of each which approve the transactions contemplated herein and authorize the execution, delivery and performance of this Agreement and the documents referred to herein to which it is or is to be a party dated as of the Closing Date.

Section 6.7 Absence of Proceedings. No action, suit or proceeding by or before any court or any governmental or regulatory authority shall have been commenced and no investigation by any governmental or regulatory authority shall have been commenced seeking to restrain, prevent or challenge the transactions contemplated hereby or seeking judgments against JAI or any Asset Purchaser.

**ARTICLE VII**  
**CONDITIONS TO CLOSING OF**  
**JAI**

Each obligation of JAI to be performed on the Closing Date will be subject to the satisfaction of each of the conditions stated in this Article VII, except to the extent that such satisfaction is waived by JAI in writing.

Section 7.1 Representations and Warranties Correct . The representations and warranties made by Foster and each of the Asset Sellers and Companies shall be true and correct as of the Closing Date.

Section 7.2 Covenants . All covenants, agreements and conditions contained in this Agreement to be performed by Foster and each of the Asset Sellers and Companies on or prior to the Closing Date will have been performed or complied with in all respects.

Section 7.3 Delivery of Certificate . Foster and each of the Asset Sellers and Companies will each provide to JAI certificates, dated the Closing Date and signed by Foster and by the President of each of the Asset Sellers and Companies to the effect set forth in Section 7.1 and 7.2 for the purpose of verifying the accuracy of such representations and warranties and the performance and satisfaction of such covenants and conditions.

Section 7.4 Delivery of Certificates . Foster shall have delivered certificates evidencing the Common Stock and Membership Interests of the Companies duly endorsed to JAI or accompanied by duly executed stock powers in form and substance satisfactory to JAI.

Section 7.5 Corporate Resolutions . Each of the Asset Purchasers and Companies shall provide to JAI a corporate or membership resolution of the Managers, Members or Board of Directors of each of the Asset Sellers or Companies, respectively, which approve all of the transactions contemplated herein and authorizes the execution, delivery and performance of this Agreement and the documents referred to herein to which it is or is to be a party dated as of the Closing Date.

Section 7.6 Consents; Status of Permits and Licenses . JAI and/or the Asset Purchasers shall have obtained all required approvals and authorizations to conduct their business as is presently being conducted on the premises of each Adult Cabaret, including, but not limited to any and all necessary sexually oriented business licenses or liquor licenses.

Section 7.7 Related Transactions . The Related Transactions set forth in Section 2.3 will be consummated concurrently with the Closing.

Section 7.8 Ability to Audit . The financial records of each of the Asset Sellers and Companies will be maintained and exist in such a manner as to allow for a certified audit as determined by JAI.



Section 7.9 Satisfactory Diligence. Within the Due Diligence Period, JAI will have concluded its due diligence investigation of the Asset Sellers and Companies and the businesses of Adult Cabarets and the Asset Sellers' and Companies' respective assets and properties and all other matters related to the foregoing, and will be satisfied, in their sole discretion, with the results thereof.

Section 7.10 Resignations. All of the officers, directors and managers of each of the Companies shall have provided to JAI their written resignations.

Section 7.11 Termination of Existing Leases. Any and all existing lease agreements for the premises of all the Adult Cabarets will have been terminated and new leases entered into.

Section 7.12 No Liabilities Outstanding. None of the Companies will have any obligations or liabilities (contingent or otherwise) or unpaid bill to any third party as of the Closing Date.

Section 7.13 No Assumption of Liabilities. Neither JAI nor any of the Asset Purchasers will assume any liabilities of any of the Asset Sellers or the businesses of any of the Asset Sellers' Adult Cabarets as of the date of Closing.

Section 7.14 Absence of Proceedings. No action, suit or proceeding by or before any court or any governmental or regulatory authority will have been commenced and no investigation by any governmental or regulatory authority will have been commenced seeking to restrain, prevent or challenge the transactions contemplated hereby or seeking judgments against any of the Asset Sellers or Companies or any of their assets.

## **ARTICLE VIII TAX COVENANTS; CLOSING ADJUSTMENTS**

### **Section 8.1 Tax Covenants.**

(a) Foster and the Asset Sellers, jointly and severally, shall be responsible for, and shall pay or cause to be paid, and shall indemnify and hold JAI and the Asset Purchasers harmless from and against any and all federal, state and local income and property (real and personal) taxes, including penalties and interest, if any, thereon, and for any taxes or obligations or liabilities that may be due pursuant to the Texas Patron Tax, which Texas Patron Tax was implemented by the Texas legislature, or any obligations or liabilities pursuant to any amendments or legislation passed in connection therewith relating to the obligation of any of the Asset Sellers or the Companies to make payment of the Texas Patron Tax that may be imposed on or assessed against any of the Companies and/or Asset Purchasers or JAI on account of taxes created or imposed upon any of the Companies or Asset Sellers or their assets for any period of time prior to the Closing Date, including all taxes due on income received by any of the Asset Sellers or the Companies prior to the Closing Date and real property taxes due under any lease agreement for the Real Estate Sellers (individually, a "**Tax**" and collectively, "**Taxes**"). Foster and the Asset Sellers shall also pay or cause to be paid and shall indemnify and hold harmless each of JAI, the Companies and Asset Purchasers against all losses, damages and reasonable third party costs and expenses (including reasonable attorney, accountant and expert witness fees and disbursements) ("**Related Costs**") incurred in connection with the Taxes for which Foster and the Asset Sellers indemnify each of JAI, the Companies and Asset Purchasers pursuant to this Section 8.1 (a) (or any asserted deficiency, claim demand or assessment, including the defense or settlement thereof) or the enforcement of this Section 8.1 (a). Any payment required to be made pursuant to this Section 8.1(a) shall be made within 30 days of written notice from JAI.

(b) JAI and the Asset Purchasers, jointly and severally, shall be responsible for, and shall pay or cause to be paid, and shall indemnify and hold Foster and the Asset Sellers harmless from and against, any and all Taxes that may be imposed on or assessed against Foster or the Asset Sellers on account of Taxes created and/or imposed on any of the Companies or the Asset Purchasers or their assets for any period of time following the Closing Date, which arose from any activities undertaken by JAI, the Companies or the Asset Purchasers which occurred subsequent to the Closing Date, including all taxes due on income received by any of the Companies or the Asset Purchasers beginning after the Closing Date. JAI and the Asset Purchasers shall also pay or cause to be paid and shall indemnify and hold harmless Foster and the Asset Sellers from and against all Related Costs of Foster or the Asset Sellers incurred in connection with the Taxes for which JAI and the Asset Purchasers indemnify Foster and the Asset Sellers pursuant to this Section 8.1(b) (or any asserted deficiency, claim, demand or assessment, including the defense or settlement thereof) or the enforcement of this Section 8.1(b). Any payment required to be made pursuant to this Section 8.1(b) shall be made within 30 days of written notice from Foster.

(c) For purposes of this Article VIII, Taxes for the period up to and including the Closing Date shall be determined on the basis of an interim closing of the books as of the Closing Date; *provided, however*, that in the case of any Tax not based on income or receipts, such Taxes shall be equal to the amount of such Tax for the taxable year multiplied by a fraction, the *numerator* of which shall be the number of days from the beginning of the taxable year through the day prior to the Closing Date, and the *denominator* of which shall be the number of days in the taxable year.

(d) JAI shall be responsible for filing or causing to be filed all tax returns required to be filed by or on behalf of the Companies after the Closing Date (other than tax returns for periods ending on or before the Closing Date but not due until after the Closing Date).

(e) The Parties shall cooperate fully with each other and make available to each other in a timely fashion such Tax data and other information and personnel as may be reasonably required for the payment of any estimated Taxes and the preparation of any tax returns required to be prepared hereunder. The Parties shall make available to each other, as reasonably requested, all information, records or documents in their possession relating to Tax liabilities of any of the Companies or the Asset Sellers for all taxable periods thereof ending on, before or including the Closing Date and shall preserve all such information, records and documents until the expiration of any applicable Tax statute of limitations or extensions thereof; *provided, however*, that if a proceeding has been instituted for which the information, records or documents are required prior to the expiration of the applicable statute of limitations, then such information, records or documents shall be retained until there is a final determination with respect to such proceeding.

(f) The Parties shall promptly notify each other in writing upon receipt by a Party, as the case may be, of any notice of any tax audits of or assessments against any of the Companies or Asset Sellers for taxable periods ending on or before the Closing Date. The failure of one party promptly to notify the other party of any such audit or assessment shall not forfeit the right to indemnity except to the extent that a party is materially prejudiced as a result. JAI shall have the right to represent any of the Companies' interests in any tax proceeding relating to such tax audits or assessments and to employ counsel of its choice at its expense provided, however, that Foster may, at his own cost and expense, participate in such proceedings relating to such tax audits or assessments. The Parties each agree to cooperate fully with the other and its or their respective counsel in the defense against or compromise of any claim in any tax proceeding.

(g) Notwithstanding anything to the contrary contained elsewhere in this Agreement, all obligations under this Article VIII will survive the Closing hereunder and continue until 30 days following the expiration of the statute of limitations on assessment of the relevant Tax.

Section 8.2 Closing Adjustments. Foster and JAI agree that there will be an adjustment made within ninety (90) days of the Closing Date to adjust for any liabilities that are found to exist of any of the Companies or, as such liabilities may relate to the Purchased Assets or the business of the Asset Sellers, so that Foster and the Asset Sellers shall be responsible and liable to JAI and the Asset Purchasers for any such liabilities that exist as of the Closing Date, less any credit which Foster and the Asset Sellers would be entitled to for cash on hand, credit card receivables or pro rata portion of prepaid items.

## **ARTICLE IX INDEMNIFICATION**

Section 9.1 Indemnification from Foster and the Asset Sellers. Foster and each of the Asset Sellers, jointly and severally, agree to and shall indemnify, defend (with legal counsel reasonably acceptable to JAI), and hold JAI and each of the Asset Purchasers, its officers, directors, shareholders, employees, affiliates, parent, agents, legal counsel, successors and assigns (collectively, the “**Purchaser Group**”) harmless at all times after the date of this Agreement, from and against any and all actions, suits, claims, demands, debts, liabilities, obligations, losses, damages, costs, expenses, penalties or injury (including reasonable attorneys’ fees and costs of any suit related thereto) suffered or incurred by any of the Purchaser Group arising from: (a) any misrepresentation by, or breach of any covenant or warranty of Foster or any of the Asset Sellers or Companies contained in this Agreement, or any exhibit, certificate, or other instrument furnished or to be furnished by Foster or any of the Asset Sellers or Companies hereunder; (b) any nonfulfillment of any agreement on the part of Foster or any of the Asset Sellers or Companies under this Agreement; (c) any liability or obligation due to any third party by any of the Asset Sellers or Companies incurred at or prior to the Closing Date, including but not limited to any liability pursuant to the Texas Patron Tax; (d) any suit, action, proceeding, claim or investigation against JAI or any of the Asset Purchasers which arises from or which is based upon or pertaining to Foster’s or any of the Asset Sellers’ or Companies’ conduct or the operation or liabilities of the business of any of the Asset Sellers or Companies prior to the Closing Date, including, but not limited to any claim of alleged misclassification of entertainers as independent contractors by any individual or governmental agency or any other claim alleging violations of any labor laws by any individual or government agency or (e) any suit, action, proceeding, claim or investigation against any of the Purchaser Group arising out of or resulting in any claims by any landlord that the any of the Asset Sellers or Companies failed to fulfill any of its obligations under any lease agreement at any time prior to the Closing Date of this Agreement.

Section 9.2 Indemnification from JAI. JAI agrees to and shall indemnify, defend (with legal counsel reasonably acceptable to Foster) and hold Foster and his affiliates, agents, legal counsel, successors and assigns and the Asset Sellers, its members, managers, officers, directors, shareholders, employees, affiliates, parent, agents, legal counsel, successors and assigns (collectively, the “**Foster Group**”) harmless at all times after the date of the Agreement from and against any and all actions, suits, claims, demands, debts, liabilities, obligations, losses, damages, costs, expenses, penalties or injury (including reasonable attorneys’ fees and costs of any suit related thereto) suffered or incurred by any of Foster Group, arising from (a) any misrepresentation by, or breach of any covenant or warranty of JAI contained in this Agreement or any exhibit, certificate, or other agreement or instrument furnished or to be furnished by JAI hereunder; (b) any nonfulfillment of any agreement on the part of JAI under this Agreement; (c) any liability or obligation due to any third party by JAI or any of the Companies or the Asset Purchasers which arose from any activities undertaken by JAI, the Companies or the Asset Purchasers which occurred subsequent to the Closing Date, including any liability pursuant to the Texas Patron Tax; or (d) any suit, action, proceeding, claim or investigation against Foster or the Asset Sellers which arises from any activities undertaken by JAI, the Companies or the Asset Purchasers which occurred subsequent to the Closing Date.

Section 9.3 Defense of Claims. If any lawsuit, enforcement action or any attempt to collect on an alleged liability is filed against any party entitled to the benefit of indemnity hereunder, written notice thereof shall be given to the indemnifying party within ten (10) business days after receipt of notice or other date by which action must be taken; provided that the failure of any indemnified party to give timely notice shall not affect rights to indemnification hereunder except to the extent that the indemnifying party demonstrates damage caused by such failure. After such notice, the indemnifying party shall be entitled, if it so elects, to take control of the defense and investigation of such lawsuit or action and to employ and engage attorneys of its own choice to handle and defend the same, at the indemnifying party's cost, risk and expense; and such indemnified party shall cooperate in all reasonable respects, at its cost, risk and expense, with the indemnifying party and such attorneys in the investigation, trial and defense of such lawsuit or action and any appeal arising therefrom; provided, however, that the indemnified party may, at its own cost, participate in such investigation, trial and defense of such lawsuit or action and any appeal arising therefrom, but the fees and expenses of such counsel shall be at the expense of such indemnified party, except to the extent that (i) the employment thereof has been specifically authorized by the indemnifying party in writing, (ii) the indemnifying party has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of such separate counsel, a material conflict of any material issue between the position of the indemnifying party and the position of such indemnified party, in which case the indemnifying party shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The indemnifying party shall not, without the prior written consent of the indemnified party, effect any settlement of any proceeding in respect of which any indemnified party is a party and indemnity has been sought hereunder unless such settlement of a claim, investigation, suit, or other proceeding only involves a remedy for the payment of money by the indemnifying party and includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding.

Section 9.4 Default of Indemnification Obligation. If an entity or individual having an indemnification, defense and hold harmless obligation, as above provided, shall fail to assume such obligation, then the party or entities or both, as the case may be, to whom such indemnification, defense and hold harmless obligation is due shall have the right, but not the obligation, to assume and maintain such defense (including reasonable counsel fees and costs of any suit related thereto) and to make any settlement or pay any judgment or verdict as the individual or entities deem necessary or appropriate in such individuals or entities absolute sole discretion and to charge the cost of any such settlement, payment, expense and costs, including reasonable attorneys' fees, to the entity or individual that had the obligation to provide such indemnification, defense and hold harmless obligation and same shall constitute an additional obligation of the entity or of the individual or both, as the case may be.

Section 9.5 Right to Offset. In the event that JAI or any of the Asset Purchasers are entitled to indemnification in accordance with Article VIII or this Article IX, including the payment by JAI or any of the Companies or Asset Purchasers of any debts of liabilities resulting from the purchase of the Common Stock, the Membership Interests or the Purchased Assets which were incurred prior to the Closing Date, including any obligations or liabilities to pay the Texas Patron Tax, then JAI or the Asset Purchasers, or JHI, an affiliate of JAI and the Asset Purchasers, who has entered into certain Related Transactions contemporaneously with the Closing of the Acquisition, shall have the right to offset any such amount from any obligations that are then due and payable to either Foster, the Asset Sellers or the Real Estate Sellers. Prior to any offset provided for pursuant to this Section 9.5, JAI, JHI or any of the Asset Purchasers shall provide written notice to Foster and/or the Asset Sellers of any intended offset and provide them the opportunity to defend pursuant to Section 9.3 (if not already done). If neither Foster nor the Asset Sellers undertake the defense against such liability within ten days of written notice or fail to pay amounts due, then such liability amount will be offset as provided for pursuant to this Section 9.5. The offset shall be applied through a principal reduction of the Promissory Note.

Section 9.6 Survival of Representations and Warranties. The respective representations, warranties and indemnities given by the parties to each other pursuant to this Agreement shall survive the Closing for a period ending 48 months from the Closing Date (“**Survival Date**”). Notwithstanding anything to the contrary contained herein, no claim for indemnification may be made against the party required to indemnify (the “**Indemnitor**”) under this Agreement unless the party entitled to indemnification (the “**Indemnitee**”) shall have given the Indemnitor written notice of such claim as provided herein on or before the Survival Date. Any claim for which notice has been given prior to the expiration of the Survival Date shall not be barred hereunder.

## **ARTICLE X MISCELLANEOUS**

Section 10.1 Amendment; Waiver. Neither this Agreement nor any provision hereof may be amended, modified or supplemented unless in writing, executed by all the parties hereto. Except as otherwise expressly provided herein, no waiver with respect to this Agreement shall be enforceable unless in writing and signed by the party against whom enforcement is sought. Except as otherwise expressly provided herein, no failure to exercise, delay in exercising, or single or partial exercise of any right, power or remedy by any party, and no course of dealing between or among any of the parties, shall constitute a waiver of, or shall preclude any other or further exercise of, any right, power or remedy.

Section 10.2 Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and delivered in person or sent by registered or certified mail (return receipt requested) or nationally recognized overnight delivery service, postage pre-paid, addressed as follows, or to such other address as such party may notify to the other parties in writing:

- (a) If to Foster: Bryan S. Foster  
7000 Stinnet Drive  
Plano, Texas 75024
- with a copy to: Roger Albright  
3301 Elm Street  
Dallas, Texas 75226-2562
- (b) If to an Asset Seller or Company: [Name of Asset Seller or Company]  
Attn: Bryan S. Foster.  
7000 Stinnet Drive  
Plano, Texas 75024
- with a copy to: Roger Albright  
3301 Elm Street  
Dallas, Texas 75226-2562
- (c) If to JAI: Jaguars Acquisition, Inc.  
Attn: Eric Langan, President  
10959 Cutten Road  
Houston, Texas 77066
- with a copy to: Robert D. Axelrod  
Axelrod, Smith & Kirshbaum  
5300 Memorial Drive, Suite 700  
Houston, Texas 77007

A notice or communication will be effective (i) if delivered in person or by overnight courier, on the business day it is delivered and (ii) if sent by registered or certified mail, three (3) business days after dispatch.

Section 10.3 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 will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

Section 10.4 Assignment; Successors and Assigns. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the parties hereto. No party hereto may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other parties hereto, which consent will not be unreasonably withheld.

Section 10.5 Public Announcements. The parties hereto agree that prior to making any public announcement or statement with respect to the transactions contemplated by this Agreement, the party desiring to make such public announcement or statement shall consult with the other parties hereto and exercise their best efforts to agree upon the text of a public announcement or statement to be made by the party desiring to make such public announcement; provided, however, that if any party hereto is required by law to make such public announcement or statement, then such announcement or statement may be made without the approval of the other parties.

Section 10.6 Entire Agreement. This Agreement and the other documents delivered pursuant hereto constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof and thereof and supersede and cancel all prior representations, alleged warranties, statements, negotiations, undertakings, letters, acceptances, understandings, contracts and communications, whether verbal or written among the parties hereto and thereto or their respective agents with respect to or in connection with the subject matter hereof.

Section 10.7 Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to principles of conflict of laws. In any action between or among any of the parties, whether arising out of this Agreement or otherwise, each of the parties irrevocably consents to the exclusive jurisdiction and venue of the federal and state courts located in Harris County, Texas.

Section 10.8 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

Section 10.9 Costs and Expenses. Each party shall pay their own respective fees, costs and disbursements incurred in connection with this Agreement.

Section 10.10 Section Headings. The section and subsection headings in this Agreement are used solely for convenience of reference, do not constitute a part of this Agreement, and shall not affect its interpretation.

Section 10.11 No Third-Party Beneficiaries. Nothing in this Agreement will confer any third party beneficiary or other rights upon any person (specifically including any employees of the Company) or any entity that is not a party to this Agreement, other than the Asset Purchasers.

Section 10.12 Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

Section 10.13 Further Assurances. Each party covenants that at any time, and from time to time, after the Closing Date, it will execute such additional instruments and take such actions as may be reasonably requested by the other parties to confirm or perfect or otherwise to carry out the intent and purposes of this Agreement.

Section 10.14 Exhibits Not Attached. Any exhibits not attached hereto on the date of execution of this Agreement shall be deemed to be and shall become a part of this Agreement as if executed on the date hereof upon each of the parties initialing and dating each such exhibit, upon their respective acceptance of its terms, conditions and/or form.

Section 10.15 Termination of Agreement. This Agreement shall terminate and be of no force and effect and all other agreements executed herewith shall be of no force and effect if: (i) the transactions contemplated by this Agreement are not consummated on or before October 15, 2012, unless all of the parties hereto agree in writing to extend the Agreement or (ii) all of the parties agree in writing to terminate this Agreement sooner.

Section 10.16 Attorney Review - Construction. In connection with the negotiation and drafting of this Agreement, the parties represent and warrant to each other that they have had the opportunity to be advised by attorneys of their own choice and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments hereto.

Section 10.17 Gender. All personal pronouns used in this Agreement shall include the other genders, whether used in the masculine, feminine or neuter gender and the singular shall include the plural and vice versa, wherever appropriate.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned have executed this Purchase Agreement to become effective as of the date first set forth above.

**JAGUARS ACQUISITION, INC.**

\_\_\_\_\_/s/ Eric Langan\_\_\_\_\_  
By: Eric Langan, President

**BRYAN S. FOSTER:**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, Individually

**JGC TYE, LLC**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, \_\_\_\_\_

**JGC LUBBOCK GOLD, LLC**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, \_\_\_\_\_

**JGC ODESSA GOLD, LLC**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, \_\_\_\_\_

**GOLD SUIT, INC.**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, \_\_\_\_\_

**JGC HARLINGEN, LLC**

By: \_\_\_\_\_/s/ Bryan S. Foster\_\_\_\_\_  
Bryan S. Foster, \_\_\_\_\_

**JGC LONGVIEW, LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**JGC EDINBURG, LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**JGC PHOENIX, LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**TI CLUB, LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**C. A. AULT INVESTMENTS, INC.**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**SADCO, INC.**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**JGC BEAUMONT, LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

**S WILLY'S LUBBOCK LLC**

By: /s/ Bryan S. Foster  
Bryan S. Foster, \_\_\_\_\_

***Exhibit A***

**Asset Seller**

**Adult Cabaret**

**Asset Purchaser**

JGC Tye, LLC

“Jaguars Gold Club”  
126 South Access Road  
126 Tye, Texas 79563

JAI Dining Services (Tye), Inc.

JGC Lubbock Gold, LLC

“Jaguars Gold Club”  
12913 US 87  
126 Lubbock, Texas 79423

JAI Dining Services (Lubbock), Inc.

JGC Odessa Gold, LLC

“Jaguars Gold Club”  
6824 Cargo Rd.  
126 Odessa, Texas 79762

JAI Dining Services (Odessa), Inc.

Gold Suit, Inc.

“Jaguars Gold Club”  
11377 Gateway Boulevard  
126 El Paso, Texas 79936

JAI Dining Services (El Paso), Inc.

JGC Harlingen, LLC

“Jaguars Gold Club”  
14286 US Highway 83  
126 Harlingen, Texas 78552

JAI Dining Services (Harlingen), Inc.

JGC Longview, LLC

“Jaguars Gold Club”  
4750 Estes Parkway  
126 Longview, Texas 75603

JAI Dining Services (Longview), Inc.

JGC Edinburg, LLC

“Jaguars Gold Club”  
5021 W. University Drive  
126 Edinburg, Texas 78539

JAI Dining Services (Edinburg), Inc.

JGC Phoenix, LLC

“Jaguars Gold Club”  
1902 N. Black Canyon Highway  
126 Phoenix, Arizona 85009

JAI Dining Services (Phoenix), Inc.

TI Club, LLC

Dormant Adult Cabaret  
(formerly “Tijuana Iguana”)  
101 Solo Road  
126 Odessa, Texas 79762

JAI Dining Services (Odessa II), Inc.

***Exhibit B***

**Real Estate Seller**

**Real Estate Property**

Expensive Soil Tye, LLC	126 South Access Road Tye, Texas 79563
Golden Productions, LLC	12913 US 87 Lubbock, Texas 79423
Expensive Soil Odessa, LLC	6824 Cargo Rd. Odessa, Texas 79762
Expensive Soil El Paso, LLC	11377 Gateway Boulevard El Paso, Texas 79936
Expensive Soil Harlingen, LLC	14286 US Highway 83 Harlingen, Texas 78552
Expensive Soil Longview, LLC	4750 Estes Parkway Longview, Texas 75603
Expensive Soil Edinburg, LLC	5021 W. University Drive Edinburg, Texas 78539
Black Canyon Highway, LLC	1902 N. Black Canyon Highway Phoenix, Arizona 85009
Expensive Soil Beaumont, LLC	5900 College Street Beaumont, Texas 77707
Highway Lot Beaumont, LLC	<hr/> Beaumont, Texas 77707
Expensive Soil Solo Road, LLC	101 Solo Road Odessa, Texas 79762
Lubbock Flat Land LLC	102 E. CR 7200 Lubbock, Texas 79423

***Exhibit C***

<b><u>Asset Seller</u></b>	<b><u>Asset Seller's pro rata interest in the Promissory Note</u></b>
JGC Tye, LLC	_____%
JGC Lubbock Gold, LLC	_____%
JGC Odessa Gold, LLC	_____%
Gold Suit, Inc.	_____%
JGC Harlingen, LLC	_____%
JGC Longview, LLC	_____%
JGC Edinburg, LLC	_____%
JGC Phoenix, LLC	_____%
TI Club, LLC	_____%

## COMMERCIAL CONTRACT - IMPROVED PROPERTIES

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1. **PARTIES:** Sellers agree to sell and convey to Buyer the Properties described in Paragraph 2. Buyer agrees to buy the Properties from Sellers for the sales price stated in Paragraph 3. The parties to this contract are:

**Sellers:** See Exhibit "A" attached hereto and made a part hereof for all purposes

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Buyer:** **Jaguars Holdings, Inc., a Texas Corporation**

**Address:** **10959 Cutten Road, Houston, Texas 77066**

**Phone:** **281-397-6730**

**Fax:** **281-397-6565**

**E-mail:** \_\_\_\_\_

2. **PROPERTY:**

- A. "Properties" means those real properties situated in **the State of Texas and Arizona** and are legally described on the attached Exhibit "B" and each individually a "Property":
- B. Sellers will sell and convey the Properties together with:
- (1) all buildings, improvements, equipment and fixtures;
  - (2) all rights, privileges, and appurtenances pertaining to the Properties, including Sellers' right, title, and interest in any utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
  - (3) Sellers' interest in all leases, rents, and security deposits for all of the Properties;
  - (4) Sellers' interest in all licenses and permits related to the Properties;
  - (5) Sellers' interest in all third party warranties or guaranties, if transferable, relating to the Properties or any fixtures;
  - (6) all Sellers' tangible personal property located on the Properties that is used in connection with the Properties' operations except: Any personal property not included in the sale must be removed by Sellers prior to closing; and
  - (7) all Sellers' interest in all minerals including oil, gas and other minerals, see Exhibit "C" attached hereto.

3. **SALES PRICE:** At or before closing, Buyer will pay the following sales price for the Properties:

- |  |                            |
|--|----------------------------|
| A. Cash portion payable by Buyer at closing                        | <b><u>\$350,000</u></b>    |
| B. Cash portion payable by Buyer 12 years from the date of closing | <b><u>\$650,000</u></b>    |
| C. Sum of all financing described in Paragraph 4                   | <b><u>\$9,000,000</u></b>  |
| D. Sales price (sum of 3A and 3B)                                  | <b><u>\$10,000,000</u></b> |

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3B as follows:

Sellers Financing: The delivery of a **promissory note** and **deeds of trust** from Buyer to Sellers under the terms of the attached Commercial Contract Financing Addendum (Exhibit "D") in the amount of **\$9,000,000.00.**

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

**5. EARNEST MONEY:**

- A. Not later than 1 day(s) after the Effective Date, Buyer must wire **\$5,000.00** as earnest money with **Stewart Title Company, North Texas Division, Attention Carol Hallows, Escrow Agent, 440 North Center, Arlington, Texas 76011 (817-265-0440-Office 817-265-1440-Fax)** If Buyer fails to timely deposit the earnest money, Sellers may terminate this contract or exercise any of Sellers' other remedies by providing written notice to Buyer before Buyer deposits the earnest money.
- B. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

**6. ALLOCATION OF SALES PRICE:**

The Sales Price shall be allocated in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended. The Sellers and Buyer acknowledge that such allocation will represent the fair market value of the Improvements and shall be binding on the parties for all applicable federal, state and local tax purposes. Sellers and Buyer agree to report gain or loss in the year of the sale, as the case may be, in a manner consistent with the allocation on all tax returns filed by either of them subsequent to the date hereof on Form 8594 filed with the appropriate tax return, and not to voluntarily take any inconsistent approach therewith in any administrative or judicial proceedings relating to such returns. The parties will agree to such allocations of each Property on or before Closing, and the Parties will attach the allocation schedule, hereto as Exhibit "E" which will be made a part hereof for all purposes.

**7. TITLE POLICY, SURVEY, AND UCC SEARCH:**

A. Title Policy:

- (1) Sellers, at Sellers' expense, will furnish Buyer an Owner's Policies of Title Insurance (the title policy(ies)) issued by (Title company), in the amount of the sales price for each tract, dated at or after closing, insuring Buyer against loss under the title policy(ies), subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
- (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
- ☒ (b) will be amended to read "shortages in areas" at the expense of ☐ Buyer ☒ Sellers.
- (3) Within fifteen (15) days after the Effective Date, Sellers will furnish Buyer commitments for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Sellers authorizes the Title Company to deliver the commitments and related documents to Buyer at Buyer's address or Buyer's attorney.

B. Survey: Within twenty (20) days after the Effective Date:

- (1) Sellers, at Sellers' expense, will furnish Buyer current surveys of the Properties dated after the Effective Date. The surveys must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate conditions and be acceptable to the Buyer and the Title Company.

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

C. UCC Search:

- (1) Within fifteen (15) days after the Effective Date, Sellers, at Sellers' expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the Effective Date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Properties are located that relate to all personal property on the Properties and show, as debtor, Sellers and all other owners of the personal property in the last 5 years.

D. Buyer's Objections to the Commitments, Surveys, and UCC Searches:

- (1) Within fifteen (15) days after Buyer receives the commitments, copies of the documents evidencing the title exceptions, any required surveys, and any required UCC searches, Buyer may object to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Properties or constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Sellers will satisfy at closing or Buyer will assume at Closing; or (b) the items show that any part of the Properties lie in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 7B(1) applies, Buyer is deemed to receive the surveys on the earlier of: (i) the date Buyer actually receives the surveys; or (ii) the deadline specified in Paragraph 7B.
- (2) Sellers may, but are not obligated to, cure Buyer's timely title objections within fifteen (15) days after Sellers receive the objections. The Closing Date will be extended as necessary. But not to exceed 60 days, to provide such time to cure the objections. If Sellers fail to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Sellers within 5 days after the time by which Sellers must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 8B, will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 7D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

**8. PROPERTY CONDITION:**

A. Present Condition: Buyer accepts the Properties in their present "as is" condition at Closing.

B. Feasibility Period: Buyer may terminate this contract for any reason within 45 days after the Effective Date (feasibility period) by providing Sellers written notice of termination. If Buyer terminates under this Paragraph 8B, the earnest money will be refunded to Buyer less **\$100.00** that Sellers will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Sellers upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 8B or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 8B.

C. Inspections, Studies, or Assessments:

- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Properties (including all improvements and fixtures) desired by Buyer. Buyer has the right to conduct environmental assessments of the Properties. Sellers will provide to Buyer all Environmental Assessments in their possession. Sellers will provide, or will designate a person with knowledge of the use and condition of the Properties to provide, information requested by Buyer or Buyer's agent or representative regarding the use and condition of the Properties. Sellers will cooperate with Buyer in obtaining and providing to Buyer or its agent or representative information regarding the Properties.



(2) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Sellers, in advance, of when the inspectors or assessors will be on the Properties;
- (c) abide by any reasonable entry rules or requirements of Sellers;
- (d) not interfere with existing operations or occupants of the Properties; and
- (e) restore the Properties to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Sellers or Sellers' agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Sellers and Sellers' agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within 15 days after the Effective Date, Sellers will deliver to Buyer if in the actual or constructive possession of Sellers:

- ☒ (a) a current rent roll of all leases affecting the Properties certified by Sellers as true and correct;
- ☒ (b) copies of all current leases pertaining to the Properties, including any modifications, supplements, or amendments to the leases;
- ☒ (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;
- ☒ (d) copies of all current service, maintenance, and management agreements relating to the ownership and operation of the Properties;
- ☒ (e) copies of current utility capacity letters from the Properties' water and sewer service provider;
- ☒ (f) copies of all current warranties and guaranties relating to all or part of the Properties;
- ☒ (g) copies of fire, hazard, liability, and other insurance policies that currently relate to the Properties;
- ☒ (h) copies of all leasing or commission agreements that currently relate to all or part of the Properties;
- ☒ (i) a copy of the "as-built" plans and specifications and plat of the Properties;
- ☒ (j) copies of all invoices for utilities and repairs incurred by Sellers for the Properties in the 12 months immediately preceding the Effective Date;
- ☒ (k) copies of all previous environmental assessments, lab reports, geotechnical reports, studies, or analyses made on or relating to the Properties;
- ☒ (l) real & personal property tax statements for the Properties for the previous 2 calendar years; and
- ☒ (m) occupancy permits for the Properties.

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, upon request, not later than **10** days after the termination date: (a) return to Sellers all those items described in Paragraph 8D(1) that Sellers delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Properties that Buyer completed or caused to be completed. This Paragraph 8D(2) survives termination of this contract.

- E. Contracts Affecting Operations: Until closing, Sellers: (1) will operate the Properties in the same manner as on the Effective Date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Properties, any interest or right in the Properties, or any of the personal property or other items described in Paragraph 2B or sold under this contract. Sellers may not enter into, amend, or terminate any other contract that affects the operations of the Properties or Tenant Lease or License without Buyer's written approval.

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

**9. LEASES:**

A. Each written lease Sellers are to assign to Buyer under this contract must be in full force and effect according to its terms. Sellers may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Sellers to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any non-occupancy of the leased premises by a tenant;
- (4) any advance sums paid by a tenant under any lease;
- (5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Lease Termination Agreement(s) shall be required at Closing regarding all Properties, on all Leases in effect at Closing, if requested by Buyer.

**10. REPRESENTATIONS OF SELLERS AND BRYAN FOSTER:** See Exhibit "F" attached hereto.

**11. CLOSING:**

A. The date of the closing of the sale ("Closing") will be on or before October 15, 2012 ("Closing Date"), subject to closing of the Acquisition Agreement (defined in Paragraph 13.A).

B. If either party fails to close by the Closing Date, the non-defaulting party may exercise the remedies in Paragraph 16.

C. At Closing, Sellers will execute and deliver to Buyer, at Sellers' expense, ☐ general ☒ special warranty deeds. The deeds must include vendor's lien if any part of the sales price is financed. The deeds must convey good and indefeasible title to the Properties and show no exceptions other than those permitted under Paragraph 7 or other provisions of this contract. Sellers must convey the Properties:

- (1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Properties which will not be satisfied out of the sales price, unless securing loans Buyer assumes; and
- (2) with no persons in possession of any part of the Properties as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- (3) A list of loan taken "subject to" is attached hereto as Exhibit "G" including the manner for the payment of such debt.

D. At closing, Sellers, at Sellers' expense, will also deliver to Buyer:

- (1) Special Warranty Deeds, free and clear of all liens and encumbrances except as herein above provided;
- (2) tax statements showing no delinquent taxes on the Properties;
- (3) bill of sale with warranties of title conveying title, free and clear of all liens, to any personal property defined as part of the Properties in Paragraph 2 or sold under this contract;
- (4) assignment of all leases to or on the Properties with full warranties of title and free and clear of all liens and encumbrances if the leases are not otherwise terminated prior to closing herein;

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

- (5) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Properties or its operations;
  - (a) licenses and permits;
  - (b) maintenance, management, and other contracts; and
  - (c) warranties and guaranties;
- (6) evidence that the persons executing this contract are legally capable and authorized to bind Sellers;
- (7) an affidavit acceptable to the escrow agent stating that Sellers are not a foreign person or, if Sellers is a foreign person, a written authorization for the escrow agent to: (i) withhold from Sellers' proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms;
- (8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Sellers as necessary;
- (9) all advance rentals and security deposits, if any, and
- (10) any other documents that Buyer deems necessary to complete this sale.

E. At closing, Buyer will:

- (1) pay the agreed portion of the sales price in good funds (if any there may be) acceptable to the escrow agent;
- (2) deliver evidence that the person executing this contract and the closing documents is legally capable and authorized to bind Buyer;
- (3) sign and send to each tenant in the Properties a written statement that:
  - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit, if any; and
  - (b) specifies the exact dollar amount of the security deposit, if any;
- (4) sign an assumption of all leases then in effect, if any leases remain;
- (5) execute all loan documents in favor of Sellers;
- (6) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale, including Seller finance documents, and
- (7) execute any loan documents in favor of third parties on debt taken subject to

- F. Unless otherwise agreed by the parties before closing, the Closing Documents for which forms exist in the current edition of the *Texas Real Estate Forms Manual* (State Bar of Texas) will be prepared using those forms or the most recent documents contained in Pro-Doc. All Closing Documents will be prepared by Buyer's attorney and subject to the reasonable approval of Sellers and/or Sellers' counsel.

**12. POSSESSION:** Sellers will deliver possession of the Properties to Buyer upon closing and funding of this sale in their present condition with any repairs Sellers are obligated to complete under this contract, ordinary wear and tear excepted.

**13. SPECIAL PROVISIONS:**

- A. This Agreement is subject to the closing of the following Purchase Agreement:

Purchase Agreement, dated and executed the same date hereof, by and among JGC Tye, LLC, JGC Lubbock Gold, LLC, JGC Odessa Gold, LLC, Gold Suit, Inc., JGC Harlingen, LLC, JGC Longview, LLC, JGC Edinburg, LLC, JGC Phoenix, LLC, TI Club, LLC, C. A. Ault Investments, Inc., Sadco, Inc., JGC Beaumont, LLC, S. Willies Lubbock, LLC, Bryan S. Foster, and Jaguars Acquisition, Inc. (the "Acquisition Agreement"). The parties to the Acquisition Agreement are affiliates of the parties to this Agreement.

- B. If for any reason the Acquisition Agreement fails to close, then either the Buyer or Sellers shall have the right to terminate this Agreement and all other simultaneous closing agreements upon 5 days written notice to the other even if such 5 day period exceeds the Closing Date herein. Buyer shall then be entitled to reimbursement of its earnest money less \$100.00 being the amount of nonrefundable consideration for this Agreement.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

- C. The Closing of this Agreement is subject to and conditioned upon JAI and/or the Asset Purchasers (as defined in the Acquisition Agreement) obtaining all required approvals and authorizations to conduct their business as is presently being conducted on the premises of each Adult Cabaret (as defined in the Acquisition Agreement), including but not limited to any and all necessary sexually oriented business licenses or liquor licenses.
- D. The Sellers agree to terminate, upon request of Buyer, all leases on Properties, if any, at or prior to the closing of the transactions contemplated hereby.
- E. From and after the Effective Date until the Closing or the termination of this Agreement, neither the Sellers nor any representatives of Sellers will offer to sell or solicit any offer to purchase or engage in any discussions or activities of any nature whatsoever, directly or indirectly, involving in any manner the actual or potential sale, transfer, encumbrance, pledge, collateralization or hypothecation of any ownership interest in any of the Properties.
- F. This Agreement is also subject to a partial release plan to be agreed to before the end of the Feasibility Period and will be contained within the Note.

#### 14. SALES EXPENSES:

- A. Sellers' Expenses: Sellers will pay for the following at or before closing:
  - (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
  - (2) release of Sellers' loan liabilities, unless such loans are to be taken "subject to";
  - (3) tax statements or certificates;
  - (4) preparation of the deeds and any bill of sales;
  - (5) one-half of any escrow fees;
  - (6) costs to record any documents to cure title objections that Sellers must cure; and
  - (7) other expenses that Sellers will pay under other provisions of this contract, including Owner Title Policies and Surveys.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
  - (1) preparation fees for loan documents;
  - (2) recording fees for the deeds and any deed of trusts;
  - (3) premiums for flood and hazard insurance as may be required by Buyer's lender;
  - (4) one-half of any escrow fees; and
  - (5) other expenses that Buyer will pay under other provisions of this contract.

#### 15. PRORATIONS:

- A. Prorations:
  - (1) Taxes, rents, and any expense reimbursements from tenants will be prorated through the Closing Date.
  - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 15A(2) survives closing.

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

- (3) Sellers will transfer all reserve deposits held by the Sellers, Sellers' tenants or Sellers' lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing without the payment of additional funds.
- (4) If a surviving tenant is responsible for taxes and insurance such obligation will be part of the Assignment of the Leases. If however; any tenant(s) fails or refuses to pay their share of taxes and/or insurance the Sellers shall remain liable for same.

B. Rollback Taxes: If Sellers change the use of the Properties before closing or if a denial of a special valuation on the Properties claimed by Sellers results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Sellers. If this sale or Buyer's use of the Properties after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 15B survives closing.

C. **Rent and Security Deposits**: At closing, Sellers will tender to Buyer at no additional cost to Buyer all security deposits and the following advance payments received by Sellers for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 15C survives closing.

#### 16. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Sellers may:
  - (1) terminate this contract and receive the earnest money, as liquidated damages and as Sellers' sole remedy; and
  - (2) Sellers ☒ may ☐ may not enforce specific performance.
- B. If, without fault, Sellers are unable within the time allowed to deliver the Estoppel Certificates, surveys or the title commitments, Buyer may:
  - (1) extend the time for performance up to thirty (30) days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 16B, if Sellers fail to comply with this contract, Sellers are in default and Buyer may:
  - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 8B, as liquidated; or
  - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.

#### 17. CASUALTY LOSS AND CONDEMNATION:

- A. If any part of the Properties are damaged or destroyed by fire or other casualty after the Effective Date, Sellers must restore the Properties to its previous condition as soon as reasonably possible and not later than the Closing Date. If, without fault, Sellers are unable to do so, Buyer may:
  - (1) terminate this contract, as to the damaged or destroyed property only, and the earnest money, less any independent consideration under Paragraph 8B, will be refunded to Buyer;
  - (2) extend the time for performance up to 30 days and Closing will be extended as necessary; or
  - (3) accept at closing: (i) the Properties in its damaged condition; (ii) an assignment of any insurance proceeds Sellers are entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

B. If before closing, condemnation proceedings are commenced against any part of the Properties, Buyer may:

- (1) terminate this contract, as to such property only, by providing written notice to Sellers within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 8B, will be refunded to Buyer; or
- (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Sellers and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.

**18. ATTORNEY'S FEES:** If Buyer, Sellers, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 18 survives termination of this contract.

**19. ESCROW:**

- A. At Closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, escrow agent may require a written release of liability of escrow agent from all parties.
- B. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- C. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Sellers.
- D. If escrow agent complies with this Paragraph 19, each party hereby releases escrow agent from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 19 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to escrow agent within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

**20. 1031 EXCHANGE:**

Buyer and Sellers acknowledge and agree that Sellers may intend to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur, the non exchanging party shall have no obligation to locate, contract for, or take title to any property that Sellers may wish to acquire or to incur any indebtedness or other obligation as a part of the Buyer's agreement to cooperate.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**21. MATERIAL FACTS:** To the best of Sellers' knowledge and belief: (*Check only one box.*)

Sellers are not aware of any material defects or material adverse conditions or hazards to the Properties except as stated in the attached Exhibit "H" attached hereto and made a part hereof for all purposes.

**22. NOTICES:** All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. Any address for notice may be changed by written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney of the party to whom notice is given.

☒ A. Sellers also consent to receive any notices by e-mail at Sellers' e-mail address stated in Paragraph 1.

☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

**23. MISCELLANEOUS PROVISIONS**

1. *Entire Contract* . This contract, together with its exhibits, and any Closing Documents delivered at closing constitute the entire agreement of the parties concerning the sale of the Properties by Sellers to Buyer. There are no oral representations, warranties, agreements, or promises pertaining to the sale of the Properties by Sellers to Buyer that are not expressly set forth in those documents.

2. *Amendment*. This contract may be amended only by an instrument in writing signed by the parties.

3. *Assignment* . Buyer may not assign this contract or Buyer's rights under it.

4. *Survival* . The provisions of this contract that expressly survive termination or closing and other obligations of this contract that cannot be performed before termination of this contract or before closing survive termination of this contract or closing, and the legal doctrine of merger does not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents will control.

5. *Choice of Law; Venue* . This contract is to be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the County of Harris, State of Texas..

6. *Waiver of Default* . Default is not waived if the non-defaulting party fails to declare immediately a default or delays taking any action with respect to the default.

7. *No Third-Party Beneficiaries* . There are no third-party beneficiaries of this contract.

8. *Severability* . If a provision in this contract is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this contract, and this contract is to be construed as if the unenforceable provision is not a part of the contract.

9. *Ambiguities Not to Be Construed against Party Who Drafted Contract* . The rule of construction that ambiguities in a document will be construed against the party who drafted it does not apply in interpreting this contract.

10. *No Special Relationship* . The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.

11. *Execution, Counterparts, Facsimile/Electronic Transmission* . This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

12. *Confidentiality* . This contract, this transaction, and all information learned in the course of this transaction shall be kept confidential, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist Buyer to investigate the Properties or either party to close this transaction.

13. *Broker Indemnification* . Buyer and Sellers each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this contract, whether the claimant is disclosed to the indemnitee or not.

14. *Binding Effect*. This contract binds benefits and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

15. *Waiver of Jury Trial*. Buyer and Sellers, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions. Buyer and Sellers acknowledge to each other that Buyer and Sellers are not in significantly disparate bargaining positions.

16. *IRS Reporting Requirements*. The Title Company is hereby designated as the "reporting person" under Section 6045 of the Internal Revenue Code of 1986 (as amended), and the regulations promulgated thereunder, and shall be responsible for filing the information return required thereunder.

17. *Effective Date* . Shall be the date in which this contract has been fully executed by all Parties and received by the Title Company.

18. *Time is of the Essence* . Time is of the Essence in all provisions of this Agreement.

19. *Deadlines and other Dates*. All deadlines in this contract expire at 5:00 P.M. local time where the Properties are located. If a deadline falls on a Saturday, Sunday, or national holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or national holiday. A national holiday is a holiday designated by the federal government. Time is of the essence.

20. *Person of Authority* . Whoever executes this document, on behalf of the Sellers and/or Buyer, shall be deemed to have authority to do so without further inquiry; upon Closing of this transaction, all documents must be executed by those who have legal authority to do so and must provide evidence of same as may be required by either the Title Company and/or the Buyer or Sellers, as appropriate. Additionally, this document provides for initialing of each page by Sellers and Buyer. Bryan Foster may initial each page on behalf of all of the Sellers, if other than Bryan Foster, such designation must be in writing.

**24. ADDITIONAL NOTICES:** See Exhibit "I" attached hereto (statutory notices when applicable).

**25. CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Properties. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Properties are located, on \_\_\_\_\_, 2012, the offer will lapse and become null and void.

**READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.**

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**



**1. Seller: Expensive Soil Tye, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Buyer: Jaguars Holdings, Inc.**

By: Eric Langan, President

By (signature): /s/ Eric Langan

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2. Seller : Golden Productions, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3. Seller: Expensive Soil Odessa, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**4. Seller: Expensive Soil El Paso, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**5. Seller: Expensive Soil Harlingen, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**6. Seller: Expensive Soil Longview, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**7. Seller: Expensive Soil Edinburg, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**8. Seller: Expensive Soil Beaumont, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**9. Seller: Highway Lot Beaumont, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**10. Seller: Expensive Soil Solo Road, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**11. Seller: Black Canyon Highway, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**12. Seller: Lubbock Flat Land, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**13. Seller: Bryan Foster, Individually with respect to Exhibit "F"**

/s/ Bryan Foster  
Signature

Printed Name: \_\_\_\_\_

By (signature): /s/ Bryan Foster

**ATTORNEYS REQUEST**

Sellers' Attorney: Roger Albright  
Address: 3301 Elm Street, Dallas, TX 75226-2562  
Phone & Fax: 214-939-9222; 214-939-9229  
E-mail: \_\_\_\_\_

Sellers' attorney requests copies of documents,  
notices, and other information:

- ☒ the title company sends to Buyer.  
☒ Seller sends to Buyer.

Buyer's Attorney: Robert Axelrod  
Address: 5300 Memorial Drive, Suite 700, Houston, Texas  
Phone & Fax: 713-861-1996 Ext. 2; 713-552-0202  
E-mail: \_\_\_\_\_

Buyer's attorney requests copies of documents,  
notices, and other information:

- ☒ the title company sends to Seller.  
☒ Buyer sends to Seller.

**ESCROW RECEIPT**

Escrow agent acknowledges receipt of:

- ☐ A. the contract on this day (Effective Date);  
☐ B. earnest money in the amount of \$\_\_\_\_\_ in the form of \_\_\_\_\_.

Escrow Agent: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone & Fax: \_\_\_\_\_

Assigned file number (GF#): \_\_\_\_\_

E-mail: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT A:**

**Sellers:** 1. Expensive Soil Tye, LLC, a Texas limited liability company

Address: 126 South Access Road & I-20  
Tye, Texas 79563

Phone: 325-691-5647

Fax: 325-691-5640

E-mail:

Authorized Seller Representative: \_\_\_\_\_

2. Golden Productions LLC, a Texas limited liability company

Address: 12913 US 87  
Lubbock, Texas 79423

Phone: 806-748-1916

Fax: 806-748-1093

E-mail:

Authorized Seller Representative: \_\_\_\_\_

3. Expensive Soil Odessa, LLC, a Texas limited liability company

Address: 6824 Cargo Road  
Odessa, Texas 79762

Phone: 432-363-1005

Fax: 432-366-6297

E-mail:

Authorized Seller Representative: \_\_\_\_\_

4. Expensive Soil El Paso, LLC, a Texas limited liability company

Address: 11377 Gateway Boulevard  
El Paso, Texas 79936

Phone: 915-590-3955

Fax: 915-590-6642

E-mail:

Authorized Seller Representative: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

5. Expensive Soil Harlingen, LLC, a Texas limited liability company

Address: 14286 US Highway 83  
Harlingen, Texas 78552

Phone: 956-428-3500

Fax: 956-428-3540

E-mail:

Authorized Seller Representative: \_\_\_\_\_

6. Expensive Soil Longview, LLC, a Texas limited liability company

Address: 4750 Estes Parkway  
Longview, Texas 75603

Phone: 903-753-1863

Fax: 903-234-8124

E-mail:

Authorized Seller Representative: \_\_\_\_\_

7. Expensive Soil Edinburg, LLC, a Texas limited liability company

Address: 5021 W. University Drive  
Edinburg, Texas 78539

Phone: 956-381-4117

Fax: 956-381-8333

E-mail:

Authorized Seller Representative: \_\_\_\_\_

8. Expensive Soil Beaumont, LLC, a Texas limited liability company

Address: 5900 College Street  
Beaumont, Texas 77707

Phone: 409-866-4462

Fax: 409-866-2874

E-mail:

Authorized Seller Representative: \_\_\_\_\_

9. Highway Lot Beaumont, LLC, a Texas limited liability company

Address: \_\_\_\_\_

Beaumont, Texas \_\_\_\_\_

Phone: 409-866-4462

Fax: 409-866-2874

E-mail:

Authorized Seller Representative: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

10. Expensive Soil Solo Road, LLC, a Texas limited liability company

Address: 101 Solo Road

Odessa, Texas 79762

Phone: 432-366-1262

Fax:

E-mail:

Authorized Seller Representative: \_\_\_\_\_

11. Black Canyon Highway, LLC, a Texas limited liability company

Address: 1902 N. Black Canyon

Phoenix, Arizona 85009

Phone: 602-352-0240

Fax:

E-mail:

Authorized Seller Representative: \_\_\_\_\_

12. Lubbock Flat Land LLC

Address:

Phone:

Fax:

E-mail:

Authorized Seller Representative: \_\_\_\_\_

13. Bryan Foster, Individually with respect to Exhibit "F"

Address:

Phone:

Fax:

E-mail:

Authorized Seller Representative: \_\_\_\_\_

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

**EXHIBIT B: LEGAL DESCRIPTIONS**

(To be attached)

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT C ADDENDUM TO COMMERCIAL CONTRACT  
FOR RESERVATION OF OIL, GAS, AND OTHER MINERALS  
BETWEEN THE UNDERSIGNED PARTIES  
CONCERNING THE PROPERTIES**

A. "Mineral Estate" means all oil, gas, and other minerals in or under the Property, any royalty under any existing or future lease covering any part of the Property, surface rights (including rights of ingress and egress), production and drilling rights, lease payments, and all related benefits.

B. The Mineral Estate owned by Sellers, if any, will be conveyed unless reserved as follows (check one box only):

☐ (1) Sellers reserve all of the Mineral Estate owned by Sellers.

☐ (2) Sellers reserve an undivided % interest in the Mineral Estate owned by Sellers. *NOTE: If Sellers do not own all of the Mineral Estate, Sellers reserve only this percentage of Sellers' interest.*

C. Sellers waive Sellers' surface rights (including rights of ingress and egress). *NOTE: Any waiver of surface rights by Sellers does not affect any surface rights that may be held by others.*

If either party is concerned about the legal rights or impact of the above provisions, that party is advised to consult an attorney BEFORE signing.

**1. Seller: Expensive Soil Tye, LLC**

**Buyer: Jaguars Holdings, Inc.**

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

By: Eric Langan, President

By (signature): /s/ Bryan Foster

By (signature): /s/ Eric Langan

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**2. Seller : Golden Productions, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3. Seller: Expensive Soil Odessa, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**



**4. Seller: Expensive Soil El Paso, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**5. Seller: Expensive Soil Harlingen, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**6. Seller: Expensive Soil Longview, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**7. Seller: Expensive Soil Edinburg, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**8. Seller: Expensive Soil Beaumont, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**9. Seller: Highway Lot Beaumont, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**10. Seller: Expensive Soil Solo Road, LLC**

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

By (signature): /s/ Bryan Foster

Printed  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**11. Seller: Black Canyon Highway, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**12. Seller: Lubbock Flat Land, LLC**

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

By (signature): /s/ Bryan Foster

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**13. Seller: Bryan Foster, Individually with respect to Exhibit "F"**

/s/ Bryan Foster  
Signature

Printed Name: \_\_\_\_\_

By (signature): /s/ Bryan Foster

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT D: ADDENDUM TO COMMERCIAL CONTRACT  
FOR SELLER FINANCING AGREEMENT  
BETWEEN THE UNDERSIGNED PARTIES  
CONCERNING THE PROPERTIES**

The portion of the Sales Price not payable in cash will be paid as follows:

**SELLER FINANCING:**

- (1) At closing, Buyer will execute and deliver a promissory note (the "Note") from Buyer to Seller in the amount of **\$9,000,000.00**, bearing **9.5% interest per annum**. Matured, unpaid amounts will bear interest at the maximum rate of interest allowed by law.. The Note will be payable in 144 equal monthly installments of principal and interest in the amount of \$104,973.59, with the initial payment due thirty (30) days after the date of Closing, with each subsequent monthly payment due thereafter. The debt taken "subject to" is included within the monthly payment.
- (2) Notwithstanding the foregoing, in the event that the Properties are not conveyed to Buyer as of the Closing Date, then the Sellers and Buyer will enter into a master lease agreement ("**Master Lease** ") for all of the Properties, as of the Closing Date, which will provide for the payment of monthly rent in an amount equal to the monthly payments which would otherwise have been due under the Note (\$104,973.59). Upon the closing of the Properties, the Note will be adjusted to provide that the monthly payments previously made pursuant to the Master Lease will be a reduction to the Note as if a payment had been made pursuant to the Note.
- (3) The Note will contain a reference to a Participation Agreement which the Sellers will enter into that will set forth each of Sellers pro rata interest in the Note and the terms and conditions pursuant to which the designated Agent of the Note will distribute payments to each of the Sellers.
- (4) The Note will be secured by vendor's liens contained in the deeds and deed of trust liens and an assignment of leases payable at the place designated by Sellers.
- (5) The Note will provide that if Buyer fails to timely pay an installment within 7 days after the installment is due, Buyer will pay a late fee equal to 1 % of the installment not paid.
- (6) The Note will provide for liability (corporate) against the Maker in the event of default.
- (7) The Note will not be pre-payable in the first 60 months and, thereafter, if prepaid at the election of the JHI, must be prepaid in full and will be subject to a prepayment penalty of 10% of the then outstanding principal amount of the Note. Any pre-payment shall be applied to the payment of the installments of principal last maturing and interest will immediately cease on the prepaid principal.
- (8) In the event that the Note and the promissory note due under the Acquisition Agreement (as provided for therein, the "Acquisition Note") are both pre-paid in full prior to their dates of maturity, then the \$650,000 cash portion due Buyer twelve (12 ) years from the date of Closing will accelerate and become due and payable within thirty (30) days of the final payment of the Note and promissory note.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

(9) If an owner's policy of title insurance is furnished, Buyer, at Buyer's expense, will furnish Seller with a mortgagee title policy in the amount of the Note at closing.

(10) If all or any part of the Properties are sold or conveyed without Seller's prior written consent, Sellers, at Sellers' option, may declare the outstanding principal balance of the note, plus accrued interest, immediately due and payable. Any of the following is not a sale or conveyance of the Property:

- (a) the creation of a subordinate lien;
- (b) a sale under a subordinate lien;
- (c) a deed under threat or order of condemnation;
- (d) a conveyance solely between the parties; or
- (e) the passage of title by reason of death of a maker or operation of law.

(11) Deposits for Taxes and Insurance: Buyer will not deposit with Sellers a pro rata part of the estimated annual ad valorem taxes on the Properties or a pro rata part of the estimated annual insurance premiums for the improvements on the Properties but will furnish proof of timely payment.

(12) The Note will include a provision for reasonable attorney's fees for any collection action.

(13) The Buyer will be entitled to indemnification as a result of a breach by the Sellers of any of the terms and provisions of this agreement, including but not limited to undisclosed liabilities related to the Properties which were incurred prior to Closing and result in a claim against the Buyer and/or the Properties. If the Buyer is entitled to indemnification, the Buyer shall have the right to Offset any such claims which have been paid by the Buyer or for which the Buyer has an obligation to pay against any obligations that are then due and payable to the Sellers. Such Right of Offset shall include attorney's fees and costs in the Defense of any such breached obligation by the Sellers.

(14) The Note will also contain a partial release plan that will entitle the Buyer, on or after sixty (60) months from the date of Closing, to have certain Properties released from Sellers' liens upon the aggregate payment of the first \$6,000,000 in principal of the Note and the Acquisition Note, and thereafter upon the aggregate payment of each additional \$3,000,000 in principal of the Note and Acquisition Note, until the Note and Acquisition Note are paid in full. Upon each such release benchmark, the Buyer and the Sellers will mutually agree upon which of the Properties will be released from the Sellers' liens. For purposes of the partial release, any Reduction Amount (as defined in Section 1.9(ii)(D) of the Acquisition Agreement) shall not be deemed a reduction in the principal of the Note or Acquisition Note.

(15) The Note and/or Deed(s) of Trust will also provide that all underlying debt (that indebtedness set forth in Exhibit "G") will be paid timely by Buyer and Buyer will furnish proof of payment of each underlying note to Sellers as may be agreed upon prior to Closing.

(16) The Note will provide the Sellers a right of first refusal, whereby if the Buyer intends to prepay the Note using proceeds from a debt financing transaction offered by a third party lender, at least 10 days prior to closing such transaction, the Buyer will provide the Sellers and/or its affiliates the right to provide financing to the Buyer within the 10 day period, in lieu of the third party lender on the exact terms and conditions offered to the Buyer in the proposed transaction.

(17) A default under the Acquisition Note will be deemed to be a default under the Note.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT E: ALLOCATION SCHEDULE**

(To be attached)

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT F: BRYAN FOSTER AND SELLERS' REPRESENTATIONS  
INCLUDING ENVIRONMENTAL MATTERS**

**A. Bryan Foster and Sellers' Representations to Buyer**

Bryan Foster and each of the Sellers, jointly and severally, represent to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority* . Sellers have full power authority to perform its obligations under this contract. This contract is binding on Sellers. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Sellers.

2. *Litigation* . There is no litigation pending or threatened against Sellers that might affect the Property or Sellers' ability to perform its obligations under this contract.

3. *Violation of Laws* . Sellers have not received written notice of any violation or alleged violation of any legal requirement affecting the Properties, including, without limitation, any violation or alleged violation of any building, zoning, subdivision, fire, safety, health, environmental, accessibility, or other codes, laws, ordinances, statutes, regulations, rules or orders of city, county, state and/or federal authorities with jurisdiction in these matters.

4. *Licenses, Permits, and Approvals* . Sellers have not received notice that any license, permit, or approval necessary to use the Properties in the manner in which it is currently being used will not be renewed on expiration or that any material condition will be imposed to use or renew the same.

5. *Condemnation; Zoning; Land Use; Hazardous Materials* . Sellers have not received notice and has no knowledge of any condemnation, zoning, or land-use proceedings affecting the Properties or any inquiries or notices by any governmental authority or third party with respect to condemnation.

6. *No Other Obligation to Sell the Property or Restriction against Sale* . Sellers have not obligated themselves to sell all or any portion of the Properties to any person other than Buyer. Sellers' performance of this contract will not cause a breach of any other agreement or obligation to which Sellers are a party or to which it is bound.

7. *No Liens* . On the Closing Date, the Properties will be free and clear of all mechanic's and materialman's liens and all other liens and encumbrances of any nature except the Permitted Exceptions or liens to which Buyer has given its consent in writing, and, and no work or materials will have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against the Properties other than work or materials to which Buyer has given its consent in writing.

8. *"As Is, Where Is"* . Sellers are conveying the Properties at Closing to Buyer "As Is, Where Is"

9. *Environmental Matters*. To the best of Sellers' knowledge and belief, the Properties are not in violation of any state, local or federal statutes, laws regulations, ordinances, rules or guidance pertaining to health or the environment ("Environmental Laws"), including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), and the Resource Conservation and Recovery Act of 1976 (RCRA), nor, to the best of Sellers' knowledge and belief, are the Properties subject to any existing, pending or threatened investigation or inquiry by any governmental authority with respect to Environmental Laws or any demands, suspected or known, for remedial obligations under Environmental Laws. To the best of Sellers' knowledge and belief, there are no underground storage tanks located beneath the Properties. The term "hazardous substances" shall be defined as any compound, substance or material listed in any state, federal and local statute, law, regulation, ordinance, rule or guidance as regulated, hazardous, or toxic. The term "released" shall have the meaning specified in CERCLA. The terms "solid wastes" and "disposed" shall have the meanings specified in RCRA. However, to the extent that the laws of the State of Texas establish a meaning for "hazardous substances", "released", "solid wastes", or "disposed" which is broader than that specified in any federal statutes, such broader meaning shall apply.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

10. *Legal Capacity.* Sellers are limited liability companies duly organized and in good standing under the laws of the State of Texas, are duly qualified to do business in and in good standing under the laws of the State in which the Properties are located and are not a foreign person within the meaning of Section 1445 of the internal Revenue Code.

11. *Enforceability.* This Agreement and all documents required hereby to be executed by Sellers, when so executed, shall be legal, valid, and binding obligations of Sellers enforceable against Sellers in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting the rights of creditors generally and, as to enforceability, the general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

12. *No Conflict.* To Sellers' Knowledge, the execution and delivery of, and consummation of the transactions contemplated by this Agreement is not prohibited by, and will not conflict with, constitute grounds for termination for, or result in the breach of any of the contracts or leases or any other agreement or instrument to which Sellers are now a party or otherwise subject.

13. *Bankruptcy Matters.* Sellers have not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets, admitted its inability to pay its debts as they come due, or made an offer of settlement, extension or composition to its creditors generally. The fair market value of the assets of Sellers exceeds the amount of liabilities of Sellers, whether contingent or otherwise.

14. *Leases and Other Agreements.* Except for the Leases (as defined herein), there are no written or oral leases or tenancies affecting the Properties and no person other than Sellers, under the Leases has any right to possession of any of the Properties, which Leases comprise all leases, licenses, or other occupancy agreements pursuant to which any tenant or other party is occupying, or has a right to occupy, the Properties. No party other than current Tenant(s) are currently occupying the Properties. Rent payments are current under each Lease, and Sellers have received no notice and has no knowledge that any Current Tenant is insolvent, has declared bankruptcy or filed a petition seeking to take advantage of any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, or that any proceeding has been commenced against any Current Tenant seeking such relief, or that any such filing or proceeding is threatened.

15. *Status of Contract Rights and Leases.* To Sellers' Knowledge, Sellers have performed and complied with all of its obligations under the leases and the contracts; the mere passage of time will not result in any default by Sellers thereunder; Sellers have not received or given any notice of default under any of the Leases or the contracts; and no event has occurred which will or could result in a default under any of the Contracts or leases by Sellers or, to Sellers' Knowledge, by any other party thereunder.

Sellers shall be deemed to have made the representations and warranties contained herein again as of the time and date of the Closing, except that Sellers shall not be in default hereof if any representation or warranty contained herein cannot be made at the Closing because of acts or fault of Buyer. The representations and warranties contained herein shall not be limited by any other paragraphs contained herein, or by any rights of Buyer to inspect the Properties.

For the purposes of this Agreement and Sellers' representations and warranties set forth herein, Sellers' Knowledge shall be deemed the Knowledge of Bryan Foster.

**\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_**

**EXHIBIT G: LOANS TAKEN “SUBJECT TO”**

(To be attached)

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_



**EXHIBIT H: LIST OF KNOWN DEFECTS BY PROPERTY**

(To be attached)

\*Initialed for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_

## EXHIBIT I: NOTICES, STATEMENTS, AND CERTIFICATES

The notices, statements, and certificates (arranged by their application to particular transactions) that are listed below in Sellers' possession and if applicable will be provided to Buyer within ten (10) days of the Effective Date.

### A. All Real Property Transaction Notices

1. *Storage Tanks Disclosure Provider* . Notice concerning underground storage tanks, described in section 334.9 of title 30 of the Texas Administrative Code

2. *Notice to Purchaser Regarding Restrictive Covenants* . Notice of deed restrictions, described in section 212.155 of the Texas Local Government Code.

3. *Notice to Purchaser Regarding Coastal Area Property* . Notice regarding real property located adjacent to tidally influenced, submerged lands of Texas, described in section 33.135 of the Texas Natural Resources Code.

4. *Notice to Purchaser of Property Seaward of Gulf Intracoastal Waterway* . Notice concerning public easements to the public beach, described in section 61.025 of the Texas Natural Resources Code.

5. *Notice Regarding Possible Liability for Additional Taxes* . Notice of additional tax liability for vacant land that has been subject to a special tax appraisal method, described in section 5.010 of the Texas Property Code.

6. *Notice Regarding Possible Annexation* . Notice containing the sale of property located outside the limits of a municipality that may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality, described in section 5.011 of the Texas Property Code.

7. *Notice for Unimproved Property in a Certificated Service Area of a Utility Service Provider* . Notice for property in a certificated service area of a utility service provider, described in section 13.257 of the Texas Water Code.

8. *Utility District Notice* . Notice concerning the bonded indebtedness of, or rates to be charged by, a utility or other special district, described in section 49.452 of the Texas Water Code, with the form of notice to be used being dependent on whether the property (1) is located in whole or in part within the extraterritorial jurisdiction of one or more home-rule municipalities but is not located within the corporate boundaries of a municipality, (2) is located in whole or in part within the corporate boundaries of a municipality, or (3) is not located in whole or in part within the corporate boundaries of a municipality or the extraterritorial jurisdiction of one or more home-rule municipalities.

9. *Notice to Purchaser of Property Located in Certain Annexed Water Districts* . Notice required by section 54.016(h)(4)(A) of the Texas Water Code when property being sold is in a water or sanitary sewer district that entered a contract with a city with a population of 1.18 million or less under which the city is permitted to set rates in the district after annexation that are different from rates charged other residents of the city.

10. *Notice to Purchaser that Property Is Located within the Area of the Alignment of a Transportation Project* . Notice required under Texas Local Government Code section 232.0033 that all or part of the subdivision in which property being sold is located is within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to a future transportation corridor identified in a contract between the Texas Department of Transportation and a county under Texas Transportation Code section 201.619.

11. *Certificates of Mold Remediation* . Notice pursuant to section 1958.154 of the Texas Occupations Code, titled "Certificate of Mold Remediation; Duty of Property Owner," requiring a property owner who sells property that has been issued a certificate of mold remediation pursuant to this section to deliver copies to the purchaser of each certificate of mold remediation issued for the property within the preceding five years.

\*Initialia for Identification by Seller \_\_\_\_\_ \* and Buyer \_\_\_\_\_



## FOR IMMEDIATE RELEASE

### RICK'S CABARET INTERNATIONAL, INC. TO ACQUIRE 11 GENTLEMEN'S CLUBS IN A SINGLE TRANSACTION

**HOUSTON** – (August 9, 2012) – **Rick's Cabaret International, Inc.** (NASDAQ:RICK), the publicly traded group of upscale gentlemen's clubs, said today its new subsidiary **Jaguars Acquisitions, Inc. (JAI)** and certain other subsidiaries will acquire nine operating locations and two other licensed locations under development in a single transaction. Ten of the clubs are in Texas and the eleventh is in Phoenix, AZ.

The subsidiaries will pay a total of \$26 million for the clubs and \$10 million for associated real estate, with \$4.35 million to be paid in cash upon closing of the transaction and the remainder through seller notes at 9.5 percent interest payable over 12 years. The seller notes may be prepaid after five years.

The locations being purchased are the **Jaguars Clubs** in Lubbock, Odessa, El Paso, Harlingen, Tye, Edinburg, Beaumont and Longview in Texas plus the Jaguars Club in Phoenix. The clubs to be developed are in Lubbock and Odessa and are expected to open as Rick's Cabaret locations within a few months of closing the transaction.

"This is a terrific acquisition for us and these outstanding clubs will very quickly begin contributing significantly to our earnings and cash flow with the nine currently operating clubs adding over \$15 million in gross revenues and approximately \$7 million of Adjusted EBITDA," said **Eric Langan**, President and CEO of Rick's Cabaret International, Inc.

Mr. Langan said the purchase price is well within the cost parameters generally followed by the company when making acquisitions. "We believe cash flow generated by these new clubs will more than cover all debt costs and they will contribute to our overall profitability," Mr. Langan added.

The purchase agreement provides that in the event the State of Texas seeks to enforce or attempts to collect obligations or liabilities due from Jaguars Clubs under the Texas Patron Tax or "Pole Tax," the promissory note for the clubs will be reduced according to a formula that reduces the purchase price by as much as \$6 million.

Closing of the transaction is expected to occur within five days of the issuance of all necessary operating permits and other documents customary for acquisitions of this type.

**About Rick's Cabaret** : Rick's Cabaret International, Inc. (NASDAQ: RICK) is home to upscale adult nightclubs serving primarily businessmen and professionals that offer live entertainment, dining and bar operations. Nightclubs in New York City, Miami, Philadelphia, Charlotte, Dallas/Ft. Worth, Houston, Minneapolis, Indianapolis and other cities as "Rick's Cabaret," "XTC," "Club Onyx" and "Tootsie's Cabaret" and other brand names. Sexual contact is not permitted at any locations. Rick's Cabaret also operates a media division, ED Publications, and owns the adult Internet membership Website couplestouch.com as well as a network of online adult auction sites under the flagship URL naughtybids.com. Rick's Cabaret common stock is traded on NASDAQ under the symbol RICK. For further information contact [ir@ricks.com](mailto:ir@ricks.com) or visit [www.ricksinvestor.com](http://www.ricksinvestor.com). Twitter: @rickscabaret; Facebook: <http://www.facebook.com/rickscabaretintl>.

**Forward-looking Statements** : This press release may contain forward-looking statements that involve a number of risks and uncertainties that could cause the company's actual results to differ materially from those indicated in this press release, including the risks and uncertainties associated with operating and managing an adult business, the business climates in cities where it operates, the success or lack thereof in launching and building the company's businesses, risks and uncertainties related to the operational and financial results of our Web sites, conditions relevant to real estate transactions, and numerous other factors such as laws governing the operation of adult entertainment businesses, competition and dependence on key personnel. Rick's has no obligation to update or revise the forward-looking statements to reflect the occurrence of future events or circumstances. For further information visit [www.ricksinvestor.com](http://www.ricksinvestor.com).

**Contact** : Allan Priaulx, 212-338-0050, [allan@ricks.com](mailto:allan@ricks.com)

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