

11-19-2002



Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

102284602

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Critics' Choice Video, Inc.

11-13-02

- Individual(s) Association General Partnership Limited Partnership Corporation-State Other Illinois corporation

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other Asset Purchase Agreement

Execution Date: 10/02/2000

2. Name and address of receiving party(ies)

Name: Infinity Resources, Inc.

Internal Address:

Street Address: 900 N. Rohlwing Road

City: Itasca State: IL Zip: 60149

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2075738

1706023 2376791

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mark E. Wiemelt, Esq.

Internal Address:

Street Address: 10 S. LaSalle St., Ste. 3500

City: Chicago State: IL Zip: 60603

6. Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41) \$ 90.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Mark E. Wiemelt Name of Person Signing

Signature

11/08/2002 Date

Total number of pages including cover sheet, attachments, and document: 41

11/18/2002 67011 00000089 2075738

01 FC:8521 02 FC:8522

40.00 DP 50.00 DP

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK REEL: 002619 FRAME: 0168

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is made and entered into as of October 2, 2000 (this "Agreement"), by and between Infinity Resources, Inc., an Illinois corporation (the "Buyer"), and Critics' Choice Video, Inc., an Illinois corporation (the "Seller"). Certain terms used in this Agreement are defined in Section 12.1.

WHEREAS, the Buyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer, the Business and the Assets subject to the Assumed Liabilities, upon the terms and subject to the conditions set forth in this Agreement (the "Contemplated Transactions").

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Transfer of Assets and Liabilities.

1.1 Assets to be Sold. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, the Seller shall sell, transfer, convey, assign and deliver to the Buyer, and the Buyer shall purchase and acquire from the Seller or one or more of its Affiliates (acting through the Seller), free and clear of any and all Liens, all of the assets and operations of the Seller or one or more of its Affiliates exclusively relating to the Business, of every type and description, real and personal, tangible and intangible, known and unknown, wherever located and whether or not reflected on the books and records of the Seller, as the same shall exist on the Closing Date, other than the Excluded Assets (collectively, the "Assets"). Without limiting the generality of the foregoing, the Assets shall include, but shall not be limited to, all right, title and interest in and to the following items:

(a) Inventory and Supplies. All inventory, promotional materials and similar items, and office supplies, wherever located, in each case, exclusively relating to the Business and reflected on Schedule 1.1(a) hereto, the value of which is set forth on the unaudited preliminary statement of assets and liabilities of the Business being assumed by the Buyer as of September 30, 2000 prepared and delivered by the Seller to the Buyer prior to the Closing (the "Preliminary Statement");

(b) Contracts and Agreements. To the extent transferrable, the Seller's or one or more of its Affiliates' right, title and interest in and to all Contracts of the Seller or one or more of its Affiliates exclusively relating to the Business, including, without limitation, the Contracts listed on Schedule 4.8 hereto (collectively, the "Assumed Contracts");

(c) Prepaid Expenses, etc. All of the Seller's prepaid expenses and rentals exclusively relating to the Business incurred in the ordinary course of business as reflected on the Preliminary Statement;

(d) Intellectual Property. All patents, trademarks, copyrights, service marks, trade names, trade secrets, software, and proprietary information utilized exclusively in the Business, all applications for or registrations of any of the foregoing, and all permits, grants, and licenses or other rights running to or from the Seller relating to any of the foregoing, including, without limitation, the "Critics' Choice Video" name and the items listed on Schedule 4.15 (collectively, the "Intellectual Property");

(e) Goodwill. All of the Seller's goodwill and going concern value exclusively relating to the Business and all of the Assets;

(f) Books and Records. All pertinent books and records of the Seller related exclusively to the Business and, with respect to Transferred Employees, those employees' personnel records (to the extent permitted by law); and

(g) Other Assets. All of the other intangible and tangible assets of the Seller or one or more of its Affiliates exclusively relating to the Business, including, without limitation, all owned office and warehouse furniture, all owned fixtures and equipment, all electronic data, all supplier and vendor information, all customer lists, mailing lists and associated data and customer correspondence, records, files, reports and other documents and data, all business post office boxes and business telephone listings, all research results and other know-how, and all other materials, records, files and data, in whatever form contained.

1.2 Excluded Assets. Notwithstanding any other provision of this Agreement, the Seller shall not sell, assign or transfer to the Buyer, and the Buyer shall not purchase from the Seller, any of the following assets (collectively, the "Excluded Assets"):

(a) This Agreement. All of the rights of the Seller under this Agreement and any documents delivered or received in connection herewith;

(b) Accounts Receivable. All receivables (including intercompany receivables) owed to the Seller;

(c) Cash and Cash Equivalents and Bank Accounts. All cash, investments and cash equivalents, on hand, in the Seller's accounts or in transit relating to the Business, as well as the bank accounts and other depository accounts relating to the Business;

(d) Insurance Policies. All insurance policies of the Seller or acquired or assumed by the Seller prior to the Closing Date pertaining to the Business and all rights of the Seller of any nature and description under or arising out of such insurance policies;

(e) Corporate Records. (i) All corporate minute books, stock ledgers and other corporate books and records of the Seller relating solely to corporate level activities of the Seller and (ii) all books and records of the Seller not relating to the Business, the Assets or the Assumed Liabilities; and

(f) Excluded Software. All software (both source code and object code) listed on Schedule 1.2(f) hereto and all documentation, copyrights, patents, trade secrets, proprietary information, trademarks, service marks and trade names and any and all applications for or registrations of any of the foregoing, and all permits, grants, and licenses relating, and all licenses or other rights running to or from the Seller relating to any of the foregoing (collectively, the "Excluded Software").

(g) Other Excluded Assets. All: (i) of the rights and assets of the Seller (x) relating to the liabilities or obligations of the Seller with respect to the Business and not otherwise assumed by the Buyer pursuant to this Agreement, other than the Assets and (y) that are not dedicated exclusively to the Business; (ii) assets not used by Seller in connection with the Business; (iii) the business and assets (including, without limitation, intellectual property) of the Collectors' Choice Music Catalog of the Seller and the CollectorsChoiceMusic.com Web site and the Collectors' Choice Music label-licensing and wholesale operations; (iv) any trademarks, service marks, trade names, emblems, logos, insignia and registration marks involving "Playboy," "Spice" or associated logo designs or any compound mark that incorporates "Playboy," "Spice" or associated logo designs; and (v) any artwork owned by PEI, the Seller or any of their respective affiliates.

1.3 Liabilities to be Assumed.

(a) Subject to the terms and conditions of this Agreement, in partial consideration of the transfer to the Buyer of the Assets, at the Closing, the Buyer shall assume and thereafter pay, perform, satisfy and discharge the following obligations and liabilities of the Seller existing at the Closing and exclusively relating to the Business (collectively, the "Assumed Liabilities"):

(i) all executory liabilities under any and all Assumed Contracts;

(ii) an adequate reserve for returns made on or after the Closing Date and reflected on the Preliminary Statement; and

(iii) liabilities associated with vacations for all Persons employed in connection with the Business hired by the Buyer (collectively, the "Transferred Employees").

(b) Except to the extent specified in Section 1.3(a) hereof, the Buyer is not assuming, in connection with the Contemplated Transactions, any liability or obligation of the Seller whatsoever.

1.4 Excluded Liabilities. Except as set forth in Section 1.3 or as otherwise agreed in writing, the Buyer shall not assume or become obligated to pay and the Seller shall continue to be responsible for and shall pay when due (subject to any grace period) any and all claims, debts, obligations or liabilities, of any kind or nature (known or unknown, accrued, contingent or absolute) of the Seller, whether or not incurred or accrued in connection with the operation of the business of the Seller or disclosed in a Schedule hereto. Notwithstanding Section 1.3, unless otherwise agreed in writing, the Buyer is not assuming:

(a) Any liability of the Seller for any federal, state, local or foreign income taxes for any period or periods prior to the Closing Date;

(b) Any liability under any product warranty or product liability claim for any products or material shipped, by the Seller prior to the Closing Date, including, but not limited to, any liability for any set-offs, allowances or credits, property damage, personal injury, or special or consequential damages in connection with claims relating to products or materials shipped prior to the Closing Date;

(c) Any obligation or liability arising under any contract, lease, agreement, understanding or arrangement of the Seller (i) incurred prior to or after the Closing Date, if such contract, lease, agreement or understanding or arrangement has not been assumed by the Buyer pursuant to Section 1.3 hereof, (ii) for intercompany liabilities created prior to the Closing Date to any Affiliate of the Seller, and (iii) any liability or obligation of the Seller with respect to (a) any judgment, order, decree, stipulation or judicial consent involving the Seller and any Governmental Body or agency or third party arising out of a suit threatened or pending prior to the Closing Date, or (b) any claims, actions, suits or proceedings against the Seller, including, arising out of events occurring, or the conduct by the Seller of the Business prior to the Closing Date; and

(d) Any net trade payables (the "Trade Payables") to the Seller's customers, suppliers, vendors or other third parties as of the Closing Date.

2. Consideration and Payment.

2.1 Consideration.

(a) At the closing provided for in Article 3 (the "Closing"), upon the terms and subject to the conditions of this Agreement, and in partial consideration of the sale of the Assets referred to in Section 1.1, the Buyer will deliver to the Seller an amount equal to the value of the Net Preliminary Assets plus, for the goodwill, customer lists and other information associated with the Business, an amount equal to \$100.00 minus an amount equal

to the Trade Payables, the Leasehold Improvements (as set forth on the Preliminary Closing Statement) and the amount required to be held back by the Buyer for Taxes pursuant to the Bulk Sales Transfer Tax Certificate delivered to the Buyer by the Department of Revenue of the State of Illinois, a copy of which has been provided to the Seller; provided, that the Buyer agrees to promptly deliver to the Seller any such amounts held back in excess of amounts actually owed by the Seller to the Department of Revenue of the State of Illinois (the "Final Tax Amount") after the Final Tax Amount has been finally determined.

(b) On or before December 28, 2000, the Buyer will deliver to the Seller an additional amount equal to the amount of the Trade Payables and the Leasehold Improvements (referred to in Section 2.1(a)) (which amount, together with the payment referred to in clause (a) above, is referred to as the "Purchase Price"). If the Buyer fails to pay such additional amount in full on or before December 28, 2000, the Buyer agrees to pay to the Seller the portion of such additional amount that remains unpaid as of December 28, 2000, together with interest accrued at ten percent (10%) over the Prime Rate from December 28, 2000 until the date of such payment plus a penalty of \$50,000. Within a reasonable period of time prior to December 28, 2000, the Buyer will deliver to the Seller the unaudited financial statements of the Buyer, in form and substance reasonably satisfactory to the Seller, setting forth in reasonable detail the financial results of the Buyer from the Closing Date in conformity with generally accepted accounting principles; provided, that prior to the funding of the transaction, the Buyer shall deliver to the Seller the cash flow projections prepared by RSM McGladrey, Inc. for the Buyer on or prior to October 6, 2000; and provided, further, that the Buyer shall promptly deliver any revisions to such cash flow projections, if any, as such revisions are made, in any event prior to December 28, 2000.

(c) The payments referred to in clauses (a) and (b) above shall be payable in cash by wire transfer of immediately available funds to an account specified by the Seller (subject to a post-closing adjustment as set forth in Section 2.2 hereof).

(d) The parties hereto agree that the effective date of the Agreement and the Contemplated Transactions is October 2, 2000 (the "Effective Date"). For the purposes of giving effect to the purchase of the Business and the Assets by Infinity as of the Effective Date, the parties hereto agree that all transactions relating to the operation of the Business and the Assets from the Effective Date through the funding of the transaction shall be effected for the mutual benefit of the parties pursuant to the Transitional Services Agreement, including, but not limited to, Section 9 therein.

(e) Fixed Assets. The parties agree that the amount equal to the fixed assets currently owned by the Seller and used in the Business (the "Fixed Assets") will not be included in the Preliminary Closing Statement. At the request of the Buyer, the Seller has agreed to use its commercially reasonable efforts to enter into a sale-leaseback arrangement with respect to the Fixed Assets (the "Prime Lease"). If the Seller enters into such an arrangement, the Buyer and the Seller shall amend Exhibit A to the Equipment Sublease Agreement to include such Prime Lease. If the Seller fails to enter into such an arrangement by

November 30, 2000, then the Buyer shall make 24 monthly payments (beginning retroactively as of October 1, 2000) to the Seller, each monthly payment to be in the amount equal to 1/24th of the amount of such Fixed Assets. Upon the final payment by the Buyer of the payments referred to in the previous sentence, title to the Fixed Assets shall be conveyed by the Seller to the Buyer.

2.2 Post-Closing Adjustment.

(a) The Seller and the Buyer agree that the Purchase Price shall be adjusted following the Closing as follows: (i) increased dollar for dollar to the extent that the Net Closing Assets exceed the Net Preliminary Assets, and (ii) decreased dollar for dollar to the extent that the Net Closing Assets are less than the Net Preliminary Assets.

(b) No later than November 30, 2000, the Seller shall prepare and deliver to the Buyer an unaudited statements of assets and liabilities of the Business as of the Closing Date (the "Closing Statement"); provided, however, that the amount of the Inventory Reserve on the Closing Statement shall be the same as the amount of the Inventory Reserve on the Preliminary Statement. The Closing Statement shall be prepared by the Seller in good faith and in accordance with generally accepted accounting principles applied on a basis consistent with the Preliminary Statement and shall be accompanied by all information reasonably necessary to determine the amount of Net Closing Assets.

(c) The Seller shall allow the Buyer and its agents access at all reasonable times after the Closing Date to the books, records and accounts of the Seller related to the Business to allow the Buyer to examine the accuracy of the Closing Statement. Within ten (10) Business Days after the date that the Closing Statement is delivered by the Seller to the Buyer, the Buyer shall complete its examination thereof and may deliver to the Seller a written report setting forth any proposed adjustments to the Closing Statement (the "Buyer's Dispute Report"). If the Buyer notifies the Seller of its acceptance of the Closing Statement, or if the Buyer fails to deliver a report of proposed adjustments to the Closing Statement within the ten (10) Business Day period specified in the preceding sentence, the Closing Statement shall be conclusive and binding on the parties as of the last day of such ten (10) Business Day period. The Buyer and the Seller shall use good faith efforts to resolve any dispute as to the Closing Statement (each a "Disputed Matter"), and any resolution between them as to a Disputed Matter shall be final, binding and conclusive on the parties hereto. If, after thirty (30) days following the receipt by the Seller of the Buyer's Dispute Report, the Buyer and the Seller are unable to resolve any Disputed Matter, such Disputed Matter shall be referred to a nationally recognized independent accounting firm reasonably acceptable to both the Buyer and the Seller (the "Arbitrator") for resolution. The Arbitrator shall be instructed to use every reasonable effort to make its determination with respect to such Disputed Matter (the "Determination") within thirty (30) days of the submission to the Arbitrator of such Disputed Matter. The Seller shall give the Arbitrator access at all reasonable times to the books, records and accounts used to prepare the Closing Statement. After completing the Determination, the Arbitrator shall deliver notice of the Determination to the Buyer and the Seller and upon receipt

thereof, the Determination shall be final, binding and conclusive on the parties hereto with respect to such Disputed Matter. Each of the Buyer and the Seller shall bear all costs, fees and expenses incurred by it in connection with such arbitration, and the allocation of the costs, fees and expenses of the Arbitrator as between the Buyer and the Seller shall be determined by the Arbitrator in its sole discretion.

(d) If the Purchase Price as finally determined in accordance with Section 2.2(a) is less than the amount paid by the Buyer to the Seller at the Closing, then the Seller shall pay over to the Buyer the amount of such difference, plus interest thereon at the rate equal to the prime rate as announced by American National Bank and Trust Company of Chicago on the date such payment is made (the "Prime Rate") from and including the Closing Date to but excluding the date of payment, by wire transfer of immediately available funds within three (3) days after the date on which the Purchase Price adjustments are finally determined in accordance with this Section 2.2. If the Purchase Price as finally determined in accordance with Section 2.2(a) is greater than the amount paid by the Buyer to the Seller at the Closing, then the Buyer shall pay over to the Seller the amount of such difference, plus interest thereon at the rate equal to the Prime Rate from and including the Closing Date to but excluding the date of payment, by wire transfer of immediately available funds within three (3) days after the date on which Purchase Price adjustments are finally determined in accordance with this Section 2.2.

2.3 Allocation of Purchase Price; Tax Matters.

(a) As soon as practicable after the Closing Statement is deemed final and binding, and in any event within five (5) Business Days of such date, the Buyer shall prepare and submit to the Seller a computation of the sale price of the Assets in accordance with the terms hereof and the allocation of such sale price among such Assets. The Seller shall have full opportunity to review such allocation for twenty (20) days after receipt of such allocation from the Buyer. The Seller may dispute any items in the allocation. Unless the Seller delivers notice to Buyer on or prior to the twentieth (20) day after receipt by the Seller of the allocation specifying any dispute with the allocation, the Seller shall be deemed to have accepted and agreed to the allocation, the Seller and the Buyer shall, within ten (10) days following such notice of dispute, attempt to resolve their differences and any resolution by them as to any disputed items shall be final, conclusive and binding on the parties. If at the end of the resolution period there remain any disputed items, then all such remaining disputed items shall be submitted to an independent third party mutually acceptable to both parties for resolution. Such independent party shall resolve any disputed items within twenty (20) days of its appointment and resolution by such independent party shall be conclusive, binding and final on the parties hereto. For purposes of determining the Buyer's basis in the Assets and gain or loss recognized by the Seller with respect to the sale of the Assets to the Buyer, the Buyer and the Seller covenant and agree that the aggregate purchase price shall be allocated by them among the Assets consistent with the allocation, and the parties further agree that they shall file all tax returns and related forms (including, without limitation, Form 8594) in accordance with the final allocation and shall not make any inconsistent written statement or take any inconsistent position

on any tax returns, in any refund claims, or during the course of any Internal Revenue Service or other tax audit.

(b) All sales, transfer, use and other similar taxes imposed in connection with the transfer of the Assets, whether such taxes are assessed initially against the Seller or the Buyer, shall be borne and paid by the Buyer; provided, however, that any Taxes assessed as a result of 35 ILCS 120/5j (2000) shall be borne and paid by the Seller.

3. Closing; Closing Date. The Closing of the sale and purchase of the Assets contemplated hereby shall take place at the offices of Paul, Weiss, Rifkind, Wharton & Garrison at 10:00 a.m. on the first Business Day following the date upon which the conditions as set forth in Articles 7 and 8 shall be satisfied or waived in accordance with this Agreement, or at such other place or such other time or date as the parties may mutually agree in writing. The date upon which the Closing occurs is herein called the "Closing Date."

4. Representations and Warranties of the Seller. The Seller represents and warrants to the Buyer as of the date of this Agreement as follows:

4.1 Corporate Existence and Power. The Seller (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois, (ii) has all requisite power and authority to own and operate its Property used in the Business, to lease the Property it operates as lessee used in the Business and to conduct the business in which it is currently, or is proposed to be, engaged, (iii) is duly qualified as a foreign corporation, licensed and in good standing under the laws of each jurisdiction in which its ownership, lease or operation of Property used in the Business or the conduct of its business requires such qualification, or in which such qualification or authorization is required by Law in connection with the operation of the Business and in which the failure so to qualify or be authorized could reasonably be expected to have a material adverse effect on the Assets taken as a whole or on the results of operations or financial condition of the Business (a "Material Adverse Effect"), and (iv) has the corporate power and authority to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents. No jurisdiction, other than those referred to in clause (iii) above, has claimed, in writing or otherwise, that the Seller is required to qualify as a foreign corporation or other entity therein in connection with the operation of the Business, and the Seller does not file any franchise, income or other tax returns in any other jurisdiction based upon the ownership or use of Property therein in connection with the operation of the Business or the derivation of income therefrom. The Seller does not own or lease Property in connection with the operation of the Business in any jurisdiction other than its jurisdiction of incorporation or other formation and the jurisdictions referred to in clause (iii) above.

4.2 Equity Investments. The Seller does not own, directly or indirectly, any outstanding voting stock of any other Person, which relates in any manner to the Business.

4.3 Authorization; No Contravention.

(a) Assuming that all consents, approvals, authorizations and other actions described in Section 4.3(b) have been obtained and all filings and notifications described in Section 4.3(b) have been made, and except as may result from any facts or circumstances relating solely to the Buyer, the execution, delivery and performance of this Agreement and the other Transaction Documents by the Seller do not and will not (i) violate or conflict with the Certificate of Incorporation or By-laws (or similar organization documents) of the Seller, (ii) conflict with or violate any Law, order, writ or judgment (collectively, "Orders") applicable to the Seller or the Business in any material respect or (iii) result in any breach of, or constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any Lien or other encumbrance on any of the Assets pursuant to, any Contract relating to or included in the Assets or to which the Seller is a party or by which any of the Assets is bound.

(b) The execution, delivery and performance of this Agreement and the other Transaction Documents by the Seller do not and will not require any consent, approval, authorization or other action by, or filing with or notification to, any Governmental Body, except (i) as described in Schedule 4.3 hereto and (ii) as may be necessary as a result of any facts or circumstances relating solely to the Buyer. The Seller is not party to, or bound by, any agreement that is currently in effect, granting rights to any Person, which are inconsistent with the rights to be granted to the Buyer by the Seller in this Agreement or the other Transaction Documents. This Agreement has been and the other Transaction Documents at Closing will have been, duly authorized by all necessary corporate action of the Seller, and duly executed and delivered by the Seller. This Agreement constitutes, and the other Transaction Documents at Closing will constitute, the legal, valid and binding obligations of the Seller, enforceable against the Seller in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

4.4 Broker's, Finder's or Similar Fees. The Seller will pay any brokerage commissions, finder's fees or similar fees or commissions payable by the Seller in connection with the Contemplated Transactions based on any agreement, arrangement or understanding with the Seller or any action taken by any such person.

4.5 Compliance with Laws. The Seller is not in violation of any Orders or any applicable law, statute, treaty, rule, regulation, right, privilege, qualification,

license, franchise, code, ordinance or other requirement (collectively, "Laws") of any Governmental Body relating to the Business in any material respect, and the Seller has not received notice that any such violation relating to the Business is being or may be alleged. The Seller has paid all Taxes due and payable prior to the Closing for the Business and filed all returns and reports required to be filed prior to the Closing with respect to the Business for which the Buyer could be held liable or a claim made against the Assets.

4.6 Permits. The Seller has all material licenses, permits, exemptions, consents, waivers, authorizations, rights, certificates of occupancy, franchises, orders or approvals of, and has made all required registrations with, any Governmental Body that are required for the conduct of the Business (collectively, "Permits"). All such Permits are listed on Schedule 4.6 hereto and are in full force and effect; no material violations are or have been recorded in respect of any such Permit; and no proceeding is pending or, to the Knowledge of the Seller, threatened to revoke or limit any such Permit.

4.7 Claims and Proceedings. There are no outstanding Orders of any Governmental Body against or involving the Seller relating to the Business. Except as set forth on Schedule 4.7 hereto, there are no actions, suits, claims or legal, administrative or arbitral proceedings or investigations relating to the Business (collectively, "Claims") (whether or not the defense thereof or liabilities in respect thereof are covered by insurance) pending, or, to the Knowledge of the Seller, threatened, against or involving the Seller. No insurance company has asserted, orally or in writing, that such Claim is not covered by the applicable policy relating to such Claim. To the Knowledge of the Seller, there is no fact, event, or circumstance that is reasonably likely to give rise to any Claim. No Order has been issued by any Governmental Body against the Seller purporting to enjoin or restrain the execution, delivery or performance of this Agreement or the other Transaction Documents or the transactions contemplated hereby and thereby.

4.8 Contracts. To the knowledge of the Seller, Schedule 4.8 lists or describes all Contracts material to the Business existing as of the date hereof other than Contracts addressed in the Real Estate Sublease and Equipment Sublease Agreement (the "Scheduled Contracts"). Complete copies of all Contracts listed on Schedule 4.8 have been delivered to or have been made available for inspection by the Buyer.

4.9 Financial Statements. The unaudited preliminary statement of assets and liabilities of the Seller (the "Financial Statements") relating to the Business as of June 30, 2000 (the "Financial Statements Date") previously delivered by Seller to the Buyer were prepared from and in accordance with the books and records of the Business, were prepared in accordance with generally accepted accounting principles consistently applied and fairly present in all material respects the financial position of the Business as of the periods then ended. Notwithstanding the foregoing, the Financial Statements will not necessarily be indicative of results that would have occurred if the Business had been a separate stand-alone entity during the periods presented or of the future results of the Business.

4.10 Sufficiency and Condition of Assets.

(a) All of the material rights, properties and assets required by the Seller in connection with owning and operating the Assets and carrying on and conducting the Business are either (i) owned by the Seller and will be included in the Assets, (ii) licensed or leased to the Seller under one of the contracts, agreements or commitments which will be assigned to Buyer at the Closing, including the Scheduled Contracts, or (iii) are included within the Assets to be subject to one or more subleases, subcontracts or other similar agreements to be provided to the Buyer at the Closing.

(b) The material fixtures, improvements, equipment, machinery and other items of tangible property included in the Assets or in the Equipment Sublease Agreement are, if currently used in the operation of the Business, in the Seller's normal operating condition and repair, ordinary wear and tear excepted.

4.11 Title to Assets.

(a) On the Financial Statements Date, the Seller had, and on the date hereof, the Seller has, good and marketable title to all the material properties and Assets reflected on the Preliminary Statement and a valid leasehold interest in all the equipment and real estate addressed in the Equipment Sublease Agreement and the Real Estate Sublease, respectively, except those disposed of in the ordinary course of business, subject to no Liens, other than Liens under the Credit Agreement, dated as of February 26, 1999, among New Playboy, Inc., PEI Holdings, Inc., the lenders named therein, ING (U.S.) Capital LLC and Credit Suisse First Boston, as amended; and

(b) at the time of Closing, the Seller shall have and shall assign, transfer and convey to the Buyer good and marketable title to all such Assets, subject to no Liens.

4.12 Restriction on Assets. The Seller is not a party to, subject to, or bound by any Order or any Contract, that could prevent the use of any of the Assets or the distribution and sale of, or the right to distribute or sell, the products distributed and sold by the Seller.

4.13 Inventory. All of the inventories which are reflected on the Financial Statements were purchased or acquired in the ordinary course of the Business and in a manner consistent with the regular inventory practices relating to the Business; on the Financial Statements Date, all of the inventories which are reflected on the Financial Statements were priced at the lower of cost or market and were (as to classes of items inventoried and methods of accounting and pricing) determined in a manner consistent with prior years; and all inventories which have been purchased or acquired by the Seller for its Business since the

Financial Statements Date were purchased or acquired in the ordinary course of the Business and in a manner consistent with its regular inventory practices.

4.14 Employees There is no material labor trouble, dispute, grievance, controversy or strike pending or, to the Knowledge of the Seller, threatened against the Seller relating to or affecting the business or operations of the Seller, and the Seller does not know of any occurrence of any events which would give rise to any such labor trouble, dispute, grievance, controversy or strike. The Seller is not a party to or bound by any collective bargaining agreement and, to Seller's Knowledge, no certification question or organization drive exists or has existed within the past twelve (12) months respecting the employees of the Seller.

4.15 Intellectual Property. A true and complete list of all patents, trademarks, tradenames, service marks or brand name registrations, and all pending applications, if any, therefor owned by the Seller and/or utilized or required in its Business and operations (collectively the "Intellectual Property Rights"), together with a summary description thereof, is contained in Schedule 4.15. No Intellectual Property Right has been, or to the Seller's Knowledge, is threatened to be, the subject of any Order which challenges or limits the validity, enforceability, use or ownership of the Intellectual Property Rights in any material respect. With respect to each Intellectual Property Right that the Seller possesses under a license from another person, if any, the license is valid, binding, enforceable and in full force and effect in all material respects; there is no default under the license; and there are no material pending disputes regarding the license. To the Knowledge of the Seller, the ownership and operation by the Seller of the Business, as presently owned and operated, does not infringe upon or violate in any material respect with any Intellectual Property Right of any other Person. The Seller is the legal and beneficial owner of all right, title and interest in and to the Intellectual Property Rights, having good title thereto, free and clear of any and all mortgages, liens, security interests and charges. The Seller has not previously assigned, transferred, conveyed or otherwise encumbered any right, title or interest in the Intellectual Property Rights and has not granted to any third party any license to use the Intellectual Property Rights in any manner, or any covenant not to sue for such use. Notwithstanding anything to the contrary contained herein, it is hereby expressly acknowledged and agreed that the sale of the Assets shall not include, and the Seller is not selling, transferring, assigning, conveying or delivering to the Buyer, any trademarks, service marks, trade names, emblems, logos, insignia and registration marks involving "Playboy," "Spice," "Collectors' Choice Music" or associated logo designs, or any compound mark that incorporates "Playboy," "Spice," "Collectors' Choice Music" or associated logo designs.

4.16 Contracts. The Seller is not and, to the Knowledge of the Seller, no other Person is, in breach of, or default under, any Scheduled Contract in any material respect. No event or action has occurred or, to the Knowledge of the Seller, is threatened, which, after the giving of notice, the lapse of time or otherwise, would constitute or result in a material breach by the Seller or, to the knowledge of the Seller, any other Person, under any Scheduled Contract.

4.17 [Intentionally omitted.]

4.18 Liabilities. On the Financial Statements Date, to the Knowledge of the Seller, the Seller has no liability of any nature (whether accrued, absolute, contingent or otherwise) of the type which should be reflected in balance sheets (including the notes thereto, if any), prepared from and in accordance with the books and records of the Business by management consistently with prior periods in all material respects, and in accordance with generally accepted accounting principles, which was not fully disclosed, reflected or adequately reserved against in the Financial Statements; and except for liabilities which have been incurred since the Financial Statements Date in the ordinary course of business, since the Financial Statements Date, the Seller has not incurred any material liability of any nature (whether accrued, absolute, contingent or otherwise), other than excluded liabilities described in Section 1.4.

4.19 Real Property. Schedule 4.19 sets forth and accurately describes the identity of all real estate owned, leased and used by the Seller which relates to or is used in the operation of the Business and which will be subject to a sublease or subleases to the Buyer at the Closing.

4.20 Taxes. The Seller has filed in correct form all federal, state or local and other tax returns and reports of every nature required to be filed by it, including without limitation, real estate, income, franchise, personal property, license, sales, use, payroll and other taxes. All of such returns were correct and complete in all material respects and the Seller has paid all taxes, duties and other governmental charges of every kind (whether or not requiring the filing of returns), including all deficiencies, assessments, additions to tax, penalties and interest of which notice has been received, to the extent that such amounts have become due. All taxes and other assessments and levies which the Seller is required by law to withhold or collect have been duly withheld and collected and have been paid over to proper governmental authorities or held by the Seller for such payment. There are no liens on the Seller or the Assets as a result of unpaid taxes and the Assets are not subject to any obligation or liability for any Taxes that may be payable by the Seller. Any future assessments or refunds, including interest and penalties, due for periods prior to the Closing (and for property taxes for the current year) shall be liabilities of and for the account of the Seller.

4.21 Environmental. Except as would not have a Material Adverse Effect and to the Knowledge of the Seller:

(a) The Seller is not in violation of any Law relating to the environment or health or safety conditions applicable to the Seller and the Business, real property or other assets, including, but not limited to, the Federal Occupational Safety and Health Act, The Federal Water Pollution Act, The Federal Clean Air Act, The Federal Toxic Substances Control Act, The Comprehensive Response, Compensation and Liability Act ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA") and the rules and regulations promulgated under any such laws;

(b) There have not been and are no underground or above ground storage tanks located on any real property to be leased to the Buyer (the "Real Property");

(c) There has been no disposal, storage, impoundment, release or discharge into or upon (i) the air, (ii) soils or any improvements located thereon, (iii) surface water or groundwater, or (iv) the sewer, septic system, or solid or liquid waste treatment, storage, or disposal system servicing the Real Property of any toxic substance or hazardous waste or hazardous substances including petroleum, petroleum by products, gasoline, diesel fuel or other petroleum hydrocarbons at or from the Real Property;

(d) There has been no complaint, order, directive, claim, citation, request for information, advice or notice or written or oral order by any Governmental Body or any other Person or entity with respect to (i) air emission, (ii) spills, releases, or discharges to soils or any improvements located thereon, surface water, groundwater, or the sewer, septic system, or waste treatment, storage, or disposal systems servicing the Real Property, (iii) noise emissions, (iv) solid or liquid waste disposal whether hazardous or nonhazardous, (v) the use, handling generation, storage, transportation, or disposal of toxic or hazardous substances or wastes, (vi) other environmental, health, or safety matters or (vii) personal injury, property damage or death, affecting the Seller, the Real Property, any improvements located thereon, the business conducted on the Real Property or property (real or personal) adjoining the Real Property;

(e) The Seller has never caused or permitted any toxic or hazardous substances or wastes to be placed, held, located or disposed of on, under or at the Real Property;

(f) No other Person has ever caused or permitted any toxic or hazardous substances or wastes to be placed, held, located or disposed of on, under or at the Real Property;

(g) No part of the Real Property is currently or has ever been used by the Seller for the disposal, storage, treatment, processing, manufacturing or other handling of toxic or hazardous substances or waste;

(h) No part of the Real Property has at any time ever been used by any party other than the Seller for the disposal, storage, treatment, processing, manufacturing or other handling of toxic or hazardous substances or waste; and

(i) The Seller has no Permits and is not required to have any Permits relating to the environment, health or safety.

4.22 Conduct of Business. Since the Financial Statements Date and except as otherwise permitted under this Agreement:

- (a) The Seller's business has been conducted and carried on in the ordinary course;
- (b) The Seller has not declared or paid any dividend on, or made any other distribution in cash or property with respect to, its capital stock;
- (c) Except for personal property purchased, sold or otherwise disposed of in the ordinary course of the Seller's business, the Seller has not purchased, sold, leased, mortgaged, pledged or otherwise acquired or disposed of any item of property;
- (d) The Seller has not sustained or incurred any material loss or damage which was not insured against on account of fire, flood, accident or other occurrence or calamity which has interfered with or affected, or may interfere with or affect, the operation of its business in any material respect;
- (e) Except for changes in general business conditions or those changes affecting the Seller's industry in particular, there has been no material adverse change in or with respect to the financial condition, operations, the business, prospects, rights, properties, assets or liabilities of the Seller, taken as a whole, or its relations with employees, unions, creditors, suppliers, advertisers, customers, potential customers or others having business relationships with it taken as a whole;
- (f) No shares of common stock or other equity security has been issued by the Seller and no right, option or warrant to acquire any such equity security has been granted;
- (g) The Seller has not disposed of or permitted to lapse any trademark, patent or any trademark or patent application or license or disposed of any trade secret, formula, process of knowhow;
- (h) The Seller has not released any obligor from any debt or claim exceeding \$25,000 owed to it;
- (i) The Seller has not changed any accounting methods or practices (including, without limitation, any change in depreciation or amortization policies or rates);
- (j) The Seller has not knowingly violated any Laws with respect to the operation of the Business; or
- (k) The Seller has not agreed to do any of the items set forth in subparagraphs (b), (c), (f), (h) or (i) above before the Closing.

5. Representations and Warranties of the Buyer. The Buyer represents and warrants to the Seller as follows:

5.1 Due Incorporation and Qualification. The Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and has the corporate power and lawful authority to own, lease and operate its assets, Properties and business and to carry on its business as now conducted.

5.2 Authority to Execute and Perform Agreements. The Buyer has the requisite corporate power and authority to enter into, execute and deliver this Agreement and each and every other agreement and instrument contemplated hereby to which the Buyer is or will be a party, and to perform fully the Buyer's obligations hereunder and thereunder. This Agreement has been duly executed and delivered by the Buyer, and each and every other agreement and instrument contemplated by this Agreement to which the Buyer is a party will be duly executed and delivered by the Buyer and (assuming due execution and delivery hereof and thereof by the other parties hereto and thereto) this Agreement and each such other agreement and instrument will be valid and binding obligations of the Buyer enforceable against the Buyer in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

5.3 Authorization: No Contravention.

(a) Assuming that all consents, approvals, authorizations and other actions described in Section 4.3(b) have been obtained and all filings and notifications described in Section 5.3(b) have been made, and except as may result from any facts or circumstances relating solely to the Seller, the execution, delivery and performance of this Agreement and the other Transaction Documents by the Buyer do not and will not (i) violate or conflict with the Certificate of Incorporation or By-laws (or similar organization documents) of the Buyer, (ii) conflict with or violate any Orders applicable to the Buyer in any material respect or (iii) result in any breach of, or constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any Contract to which the Buyer is a party or by or to which the Buyer may be bound or subject.

(b) The execution, delivery and performance of this Agreement and the other Transaction Documents by the Buyer do not and will not require any consent, approval, authorization or other action by, or filing with or notification to, any Governmental Body, except (i) as described in Schedule 5.3 hereto and (ii) as may be necessary as a result of any facts or circumstances relating solely to the Seller. The Buyer is not party to, or bound by, any agreement that is currently in effect, granting rights to any Person, which are inconsistent with the rights to be granted to the Seller by the Buyer in this Agreement

or the other Transaction Documents. This Agreement has been and the other Transaction Documents at Closing will have been, duly authorized by all necessary corporate action of the Buyer, and duly executed and delivered by the Buyer. This Agreement constitutes, and the other Transaction Documents at Closing will constitute, the legal, valid and binding obligations of the Buyer, enforceable against the Buyer in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity relating to enforceability (regardless of whether considered in a proceeding at law or in equity).

6. Covenants and Agreements.

6.1 Conduct of Business. From the date of this Agreement until the Closing Date, the Seller shall conduct the Business in the ordinary course of business.

6.2 Corporate Examinations and Investigations. Until the Closing Date, the Seller shall permit employees and representatives of the Buyer to visit and inspect any of its Properties, to examine its corporate, financial and operating records and make copies thereof or abstracts therefrom, and to discuss its affairs, finances, and accounts with its directors, officers and independent public accountants, all at such reasonable times during normal business hours and as often as may be reasonably requested upon reasonable advance notice to the Seller, and the Seller shall cooperate fully therewith. No investigation by the Buyer shall diminish or obviate any of the representations, warranties, covenants or agreements of the Seller relating to the Business contained in this Agreement.

6.3 Further Assurances; Consent of Third Parties.

(a) At any time and from time to time during the one (1) year period following the Closing, at the Buyer's or the Seller's request and without further consideration, the Seller or the Buyer, as the case may be, shall execute and deliver such further Documents, perform such further acts, and fully cooperate with each other, as may be reasonably necessary in order to effectively transfer and convey the Assets to the Buyer, on the terms herein contained, and to otherwise comply with the terms of this Agreement and consummate the Contemplated Transactions. Each of the parties shall use commercially reasonable efforts (which efforts will not obligate a party hereto to pay any money) to fulfill or obtain the fulfillment of the conditions to the Closing set forth in Articles 7 and 8.

(b) Nothing in this Agreement shall be construed as an attempt, obligation or agreement to assign any Asset, including any license, certificate, approval, authorization, agreement, Contract, lease, Permit or other right, which by its terms or by law is nonassignable without the consent of a third party unless and until such consent shall be given ("Nonassignable Assets"). To the extent permitted by applicable law, in the event consents to the assignment thereof cannot be obtained, such Nonassignable Assets shall be held, as and from the Closing Date, by Seller in trust for the Buyer and the covenants and obligations thereunder shall be performed by the Buyer in the Seller's name and all benefits and obligations

existing thereunder shall be for Buyer's account. The Seller shall take or cause to be taken such action in its name or otherwise (provided any expenses incurred therewith shall be borne equally by the Seller and the Buyer) as the Buyer may reasonably request so as to provide the Buyer with the benefits of the Nonassignable Assets and to effect collection of money or other consideration to become due and payable under the Nonassignable Assets, and the Seller shall promptly pay over to the Buyer all money or other consideration received by it in respect to all Nonassignable Assets. As of and from the Closing Date, the Seller authorizes the Buyer, to the extent permitted by applicable law and the terms of the Nonassignable Assets, at the Buyer's expense, to perform all the obligations and receive all the benefits of the Seller under the Nonassignable Assets and appoints the Buyer its attorney-in-fact to act in its name and on its behalf with respect thereto.

6.4 Bulk Sales Law. As soon as practicable after the Closing Date, and in any event within ten (10) days of such date, the Buyer shall file all notices required to be filed under 35 ILCS 120/5j (2000).

6.5 Books and Records.

(a) Each of the Seller and the Buyer agrees that it shall preserve and keep all books and records in respect of the Business in its possession for a period of at least three (3) years from the Closing Date. Subject to any limitations that are required to preserve any applicable privilege or to maintain confidentiality, the Seller shall be given an opportunity, at its cost and expense, to make copies of all or any part of such books and records as the Seller may select.

(b) If, in order properly to prepare documents required to be filed with governmental authorities or its financial statements, it is necessary that either party hereto or any successors be furnished with additional information relating to the Business, the Assets or the Assumed Liabilities, and such information is in the possession of the other party hereto or any of its Affiliates, such party agrees to use its commercially reasonable efforts to furnish such information to such other party, at the cost and expense of the party being furnished such information.

6.6 Confidentiality. Except as may be required by Law, required by a professional advisor or employee in the course of business or as otherwise permitted or expressly contemplated herein, no party or its Affiliates, employees, agents and representatives will disclose to any Person this Agreement, the subject matter or terms hereof or any confidential information or other proprietary knowledge concerning the business or affairs of any other party which it may have acquired from such party in the course of pursuing the Contemplated Transactions without the prior consent of the other party; provided, that any information that is otherwise publicly available, without breach of this provision, or has been obtained from a third party, will not be deemed confidential information. The parties agree that, except to the extent required by Law, after the Closing, no publicity release or announcement concerning this Agreement or the Contemplated Transactions shall be made without the prior

written consent thereof by the Seller and the Buyer, not to be unreasonably withheld or delayed.

6.7 Litigation. From the date hereof through the Closing Date, the Seller shall promptly notify the Buyer of any investigations of which the Seller has Knowledge or any lawsuits, claims, notices of violation or proceedings that after the date hereof to the Knowledge of the Seller, are commenced or threatened, against the Seller or against any Affiliate, employee, consultant, agent, stockholder or other representative of the Seller arising out of or relating to the affairs or conduct of the Business or any of the Assets or the Contemplated Transactions.

6.8 Other Transactions. Prior to the Closing Date, neither the Seller nor any of its Affiliates, nor any of their respective representatives shall, directly or indirectly, encourage, initiate or engage in any discussions or negotiations with, or provide any information to, any Person other than the Buyer and the Buyer's representatives, concerning any sale of the Business, or any sale of the Assets other than in the ordinary course of business, except for discussions and negotiations reasonably required to effect the Contemplated Transactions; provided, however, that this Section 6.8 shall in no way limit discussions with respect to any reorganization, sale or merger of Seller or its Affiliates which transaction would not prevent the consummation of this Agreement in accordance with its terms. If any Person contacts the Seller or any of its Affiliates with any proposal or expression of interest concerning any such transaction, the Seller promptly shall notify the Buyer that it has received an expression of interest and, if such proposal or expression of interest is in writing, shall promptly provide a copy to the Buyer.

6.9 Collectors' Choice Music.

(a) The Seller shall use reasonable efforts to assist the Buyer in obtaining an agreement whereby the Buyer shall provide certain catalog fulfillment, order entry, customer service and related functions for the buyer of Collectors' Choice Music ("CCM"), a division of the Seller, for a period of four years, at an amount designed to approximate the historical "cost per order" rates allocated to CCM plus ten percent (10%), plus an amount added each year of the term after the initial year as an inflation factor adjustment. If the transaction contemplated by the foregoing is consummated prior to the Closing Date, the Seller shall use commercially reasonable efforts to cause the services agreement to be executed in connection therewith to be assigned to the Buyer.

(b) If either (i) the Seller ceases to operate the CCM business or (ii) sells the CCM business to a third party and such third party does not assume the CCM Supply and Fulfillment Services Agreement as part of such sale, then, from and after the date of such event, the Seller agrees to pay to the Buyer a monthly fee of \$67,288, payable on the last day of each month, until March 2002, and upon paying such monthly fee in respect of the month of March 2002, the Seller shall have no further obligation whatsoever under this

Section 6.9(b) or under the CCM Supply and Fulfillment Services Agreement (notwithstanding any provision contained in the CCM Supply and Fulfillment Services Agreement).

(c) Notwithstanding the foregoing, if the Seller sells the CCM business to a third party and such third party enters into the CCM Supply and Fulfillment Services Agreement, but the monthly payments due under such agreement are less than \$67,288, then the Seller shall pay to the Buyer a monthly fee equal to the difference between \$67,288 and the amount due under such agreement, in accordance with Section 6.9(b); provided, however, that if the third party buyer enters into the CCM Supply and Fulfillment Agreement and the monthly payments due under such agreement are at least \$67,288, then the Seller shall have no further obligation whatsoever under this Section 6.9 or under the CCM Supply and Fulfillment Services Agreement (notwithstanding any provision contained in the CCM Supply and Fulfillment Services Agreement).

6.10 Employees and Employee Plans.

(a) Transferred Employees. Except as set forth in Section 6.10(b)(iv), any employment by the Buyer of a Transferred Employee shall commence immediately on the Closing Date and shall be deemed, for all purposes consistent with applicable law and except as otherwise expressly provided herein, to have occurred with no interruption or break in services and no termination of employment.

(b) Welfare Plans.

(i) The Seller shall be responsible for, and shall indemnify and hold the Buyer harmless from and against, all claims of Transferred Employees for worker's compensation, unemployment compensation and other government-mandated benefits, and for weekly indemnity, life, hospital/medical/surgical (except for disability), major medical and dental benefits, for expenses which were incurred prior to the Closing Date and are payable under the terms and conditions of any existing benefit programs maintained or contributed to by PEI or the Seller in which Transferred Employees or their covered dependents participate; provided that claims for such benefits are received by the Seller no later than December 31, 2000; provided further, that either PEI or the Seller shall notify the Transferred Employees as soon as reasonably practicable after the Closing of such December 31, 2000 deadline. The Buyer shall be responsible for, and shall indemnify and hold the Seller harmless from and against, all claims of Transferred Employees or their covered dependents for such expenses which are incurred on or after the Closing Date and which are payable under the terms and conditions of any benefit program adopted, maintained or contributed to by the Buyer which is analogous to a plan or program described in the preceding sentence, and in which Transferred Employees participate (the "Buyer Welfare Plans"). Anything contained in this Section 6.10(b)(i) to the contrary notwithstanding, any amount payable in respect of any claim which is determined by a final decision of a court of competent jurisdiction or of a duly constituted arbitral tribunal to be wholly or partly the joint responsibility

of the Buyer and the Seller shall be paid by the Buyer and the Seller on the basis determined by such court or tribunal.

(ii) Except as otherwise set forth in this Section 6.10(b)(ii), service by Transferred Employees with the Seller or any Affiliate thereof shall be recognized under the Buyer Welfare Plans for all purposes, including but not limited to participation, coverage and level of benefits, as applicable. Notwithstanding the preceding sentence, the Buyer shall not be required to recognize Transferred Employees' service with the Seller for purposes of determining any rights to severance. The Buyer shall waive or cause its insurance carriers to waive all limitations as to pre-existing conditions, if any, with respect to participation and coverage requirements applicable to Transferred Employees under the Buyer Welfare Plans, to the extent such conditions are currently covered under the Seller's or its Affiliate's plans.

(iii) PEI shall be responsible for continuing to provide benefits under its short term disability plan to any Transferred Employees who, prior to the Closing Date, are eligible to receive benefits under such plans. As soon as a Transferred Employee recovers and is capable of becoming an active employee, PEI shall cease paying benefits under its short term disability plan and the Transferred Employee shall commence employment with the Buyer immediately. If instead, a Transferred Employee does not recover and becomes eligible for coverage under PEI's long term disability plan, then such Transferred Employee shall continue to be covered under such plan until he or she recovers, if ever.

(c) Vacation. Each Transferred Employee will be credited by the Buyer with any unused vacation earned as of the Closing Date under the vacation policy of the Seller or any affiliate applicable to such Transferred Employee, and the Seller shall have no liability therefor following the Closing. The Buyer shall recognize service by each Transferred Employee with the Seller or any Affiliate thereof for purposes of determining entitlement to vacation following the Closing Date under the applicable vacation policy of the Buyer; provided however, that this Section 6.10(c) shall not entitle any Transferred Employee to be credited with vacation entitlement under the Buyer's vacation policy for any period of employment prior to the Closing Date.

(d) [Intentionally omitted].

(e) Retirement Plans

(i) The Buyer will cause the Buyer's 401(k) Plan ("Buyer's 401(k) Plan") to expressly provide that any Transferred Employees who were participants in the PEI Employee Investment Savings Plan ("PEI's 401(k) Plan") immediately prior to the Closing Date will, as soon as practicable, become participants ("Transferred 401(k) Participants") in Buyer's 401(k) Plan as of the Closing Date.

(ii) Following the Closing Date, the Buyer shall cause the Buyer's 401(k) Plan to accept any rollovers of account balances from the Transferred 401(k) Participants.

(f) Non-Transferred Business Employee: COBRA. The Seller and PEI shall retain or assume responsibility for and shall indemnify and hold the Buyer harmless from and against any loss as a result of any liability incurred by the Buyer or a Buyer affiliate (i) with respect to any employee or former employee of the Seller or any Affiliates other than a Transferred Employee, and (ii) under any group health plan maintained by PEI, the Seller or any Affiliate, including but not limited to, federal and state income tax liability, by reason of PEI's or the Seller's failure, through any act or omission on or after the Closing Date, to comply with the requirements of Section 4980B(f) of the Code. Notwithstanding the above, the Buyer shall indemnify and hold PEI and the Seller harmless from and against any loss as a result of any liability incurred by PEI, or the Seller or an Affiliate thereof based on a claim by a Transferred Employee that the consummation of the transactions contemplated herein result in a "qualifying event" (as defined in Section 4980B(f)(3) of the Code) with respect to such Transferred Employee.

6.11 Name Change. As soon as reasonably practicable following the Closing, the Seller agrees to change its corporate name from "Critics' Choice Video, Inc." to some other dissimilar corporate name.

6.12 Overdue Accounts. The Buyer agrees that it shall make commercially reasonable efforts not to ship any products to any Person which has a material receivable balance outstanding with PEI or the Seller or that is related to the Business of 60 days or greater.

6.13 No Affiliation Representation. The Buyer agrees that it shall not represent itself to any third party as being owned by or otherwise affiliated with PEI or any of its subsidiaries or Affiliates; provided, further that the Buyer will not use the "Playboy" name or the PEI trademarks, service marks, trade names, emblems, logos, insignia or registration marks in connection with the Buyer's business without the prior written consent of PEI.

6.14 Financial Information. At least once per month, the Buyer shall deliver to the Seller, in form and substance reasonably satisfactory to the Seller, a certificate signed by the Chief Financial Officer of the Buyer certifying the amount available to be drawn by the Buyer under its revolving credit facility with the American National Bank and Trust Company of Chicago, as the same may be hereafter amended, modified, substituted, extended, restated or replaced, from time to time; provided, however, that the obligations of the Buyer under this Section 6.14 shall terminate on December 31, 2004.

7. Conditions Precedent to the Obligations of the Buyer. The obligation of the Buyer to enter into and complete the Closing is subject, to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by it:

7.1 Representations and Covenants. The representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects, on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date. The Seller shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by the Seller on or prior to the Closing Date. The Seller shall have delivered to the Buyer a certificate, dated the date of the Closing and signed by an officer of the Seller, to the foregoing effect.

7.2 Secretary's Certificate. The Buyer shall have received a certificate from the Seller, in form and substance reasonably satisfactory to the Buyer, dated as of the Closing Date and signed by the Secretary or an Assistant Secretary of the Seller, certifying (i) that the Board of Directors of the Seller has approved the Contemplated Transactions and (ii) as to the incumbency and specimen signature of each officer of the Seller executing this Agreement, the other Transaction Documents and any other documents delivered in connection herewith on behalf of the Seller.

7.3 Additional Closing Documents of the Seller. The Seller shall have executed and delivered to the Buyer the following documents, each dated the Closing Date: (i) a Bill of Sale and Assignment, in the form of Exhibit A-1 (the "Bill of Sale"); (ii) an Assumption Agreement, in the form of Exhibit A-2 (the "Assumption Agreement"); and (iii) such further instruments of sale, transfer, conveyance, assignment or delivery covering the Assets or any part thereof as the Buyer may reasonably require to assure the full and effective sale, transfer, conveyance, assignment or delivery to it of the Assets (including the Permits).

7.4 Transitional Services Agreement. PEI and the Buyer shall have entered into the Transitional Services Agreement, in the form of Exhibit B (the "Transitional Services Agreement"), pursuant to which PEI or one or more of its Affiliates shall provide certain administrative, corporate support and other transitional services to the Buyer on the terms and conditions set forth therein.

7.5 Playboy.com Supply and Fulfillment Services Agreement. Playboy.com and the Buyer shall have entered into the Supply and Fulfillment Services Agreement, in the form of Exhibit C-1 (the "Playboy.com Supply and Fulfillment Services Agreement"), pursuant to which the Buyer shall provide certain catalog fulfillment, order entry, customer service and related functions for Playboy.com's retained catalog and web enterprises on the terms and conditions set forth therein.

7.6 CCM Supply and Fulfillment Services Agreement. CCM and the Buyer shall have entered into the CCM Supply and Fulfillment Services Agreement, in the form of Exhibit C-2 (the "CCM Supply and Fulfillment Services Agreement"), pursuant to which the Buyer shall provide certain catalog fulfillment, order entry, customer service and related functions to CCM's catalog and web enterprises on the terms and conditions set forth therein.

7.7 Warehousing and Storage Agreement. PEI and the Buyer shall have entered into the Warehousing and Storage Agreement, in the form of Exhibit D (the "Warehousing and Storage Agreement"), pursuant to which the Buyer shall provide certain warehousing and storage functions for PEI on a transitional basis on the terms and conditions set forth therein.

7.8 Equipment Sublease Agreement. PEI and the Buyer shall have entered into the Equipment Sublease Agreement, in the form of Exhibit E (the "Equipment Sublease Agreement"), pursuant to which PEI shall permit the Buyer to use certain equipment on the terms and conditions set forth therein.

7.9 No Claims. No Claims shall be pending or, to the knowledge of the Buyer or Knowledge of the Seller, threatened, before any Governmental Body to restrain or prohibit, or to obtain damages or a discovery order in respect of, this Agreement or the consummation of the Contemplated Transactions or which has had or may have, in the reasonable judgment of the Buyer, a Material Adverse Effect.

7.10 Third Party Consents. All necessary agreements and consents of any third parties with respect to the Scheduled Contracts conveyed hereunder, and all authorizations, consents or approvals of any and all governmental regulatory authorities necessary in connection with the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect, except for the Real Estate Sublease and the Equipment Sublease Agreement or as would not have a Material Adverse Effect.

7.11 Real Estate Sublease. The Buyer and the Seller shall have, simultaneously with the Closing, consummated the transaction contemplated under the Real Estate Sublease, in the form of Exhibit F (the "Real Estate Sublease").

7.12 Non-Competition Agreement. Playboy.com and the Buyer shall have entered into the Non-Competition Agreement, in the form of Exhibit G (the "Non-Competition Agreement"), pursuant to which Playboy.com shall be restricted from competing against the Buyer on the terms and condition set forth therein.

7.13 Resolutions. The Buyer shall have received a copy of the resolutions of the Board of Directors of the Seller and the shareholder of the Seller, if applicable, approving this Agreement, the other Documents incident hereto and the Contemplated Transactions; and such resolutions shall remain unamended and in full force and effect as of the Closing Date.

7.14 Opinion of Counsel. The Buyer shall have received an opinion of the general counsel of the Seller, dated the Closing Date, relating to the transactions contemplated by or referred to herein, substantially in the form attached hereto as Exhibit H.

7.15 Preliminary Statement. The Buyer shall have received the Preliminary Statement from the Seller.

8. Conditions Precedent to the Obligation of the Seller. The obligation of the Seller to enter into and complete the Closing is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by the Seller:

8.1 Representations and Covenants. The representations and warranties of the Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date. The Buyer shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by it on or prior to the Closing Date. The Buyer shall have delivered to the Seller a certificate, dated the date of the Closing and signed by an officer of the Buyer, to the foregoing effect.

8.2 Transaction Documents. The Buyer shall have executed and delivered to the Seller each of the Transaction Documents, dated the Closing Date. Each of the parties to the Transaction Documents (other than the Buyer and Seller) shall have been executed and delivered each agreement, as appropriate.

8.3 Secretary's Certificate. The Seller shall have received a certificate from the Buyer, in form and substance reasonably satisfactory to the Seller, dated as of the Closing Date and signed by the Secretary or an Assistant Secretary of the Buyer, certifying (i) that the Board of Directors of the Buyer has approved the Contemplated Transactions and (ii) as to the incumbency and specimen signature of each officer of the Buyer executing this Agreement, the other Transaction Documents and any other document delivered in connection herewith on behalf of the Buyer.

8.4 Employees of the Seller. The Buyer shall have provided Seller with a written list of those employees of Seller to whom Buyer shall offer employment to in connection with the sale of the Business and Assets.

8.5 No Claims. No Claims shall be pending or, to the knowledge of the Buyer or the Knowledge of the Seller, threatened, before any Governmental Body to restrain or prohibit, or to obtain damages or a discovery order in respect of, this Agreement or the consummation of the Contemplated Transactions.

8.6 Resolutions. The Seller shall have received a copy of the resolutions of the Board of Directors of the Buyer and the shareholders of the Buyer, if applicable, approving this Agreement, the other Documents incident hereto and the Contemplated Transactions, and such resolutions shall remain unamended and in full force and effect as of the Closing Date.

8.7 Opinion of Counsel. The Seller shall have received an opinion of Huff & Gaines, counsel of the Buyer, dated the Closing Date, relating to the transactions contemplated by or referred to herein, substantially in the form attached hereto as Exhibit I.

8.8 Certificate of Resale. The Seller shall have received from the Buyer a Certificate of Resale substantially in the form of the draft attached hereto as Exhibit J.

9. Survival of Representations and Warranties. All of the representations and warranties made herein shall survive the execution and delivery of this Agreement until eighteen (18) months after the Closing Date, and no claim or demand for indemnification pursuant to Article 10 or otherwise shall be made after such date, except for those claims or demands for indemnification pursuant to Article 10, of which the Buyer or the Seller has notified the Seller or the Buyer in writing prior to such date in accordance with the terms of this Agreement.

10. Indemnification

10.1 Obligation of the Seller to Indemnify. Subject to the limitations contained in Article 9, the Seller agrees to indemnify, defend and hold harmless the Buyer (and its directors, officers, employees, Affiliates, successors and assigns) from and against all losses, liabilities, damages, deficiencies, demands, claims, actions, judgments or causes of action, assessments, costs or expenses (including, without limitation, interest, penalties and reasonable fees, expenses and disbursements of attorneys, experts, personnel and consultants, including reasonable costs of investigation, incurred by the indemnified party in any action or proceeding between the indemnifying party and the indemnified party or between the indemnified party and any third party, or otherwise) (collectively, "Losses") based upon, or arising out of (a) any inaccuracy or misrepresentation in or any breach of any representation, warranty, covenant or agreement of the Seller contained in this Agreement or in any of the Documents delivered by the Seller pursuant to this Agreement, (b) any liabilities or obligations of the Seller with respect to the Business not assumed by the Buyer pursuant to this Agreement or (c) any liabilities or obligations of the Seller arising out of any act, transaction, circumstances, factual situations, or violation of Law occurring or existing prior to the Closing Date, whether or not known to the Seller (other than with respect to Assumed Liabilities); provided, however, that with respect to clause (a), the Seller shall not be liable to any Person in connection with the foregoing for any Losses (i) unless and until such Losses exceed in the aggregate an amount equal to \$50,000 and (ii) to the extent that the aggregate amounts paid by the Seller hereunder exceeds the Purchase Price.

10.2 Obligation of the Buyer to Indemnify. The Buyer shall indemnify, defend and hold harmless the Seller from and against any Losses based upon, arising out of or otherwise in respect of (a) any inaccuracy or misrepresentation in or any breach of any representation, warranty, covenant or agreement of the Buyer contained in this Agreement or in any Documents delivered by the Buyer pursuant to this Agreement, (b) any Assumed Liability or (c) the operation of the Business on or after the Closing Date unless it arose from a

condition in existence prior to Closing; provided, however, that with respect to clause (a), the Buyer shall not be liable to any Persons in connection with the foregoing for any Losses (i) unless and until such Losses exceed in the aggregate an amount equal to \$100,000 and (ii) to the extent that the aggregate amounts paid by the Buyer hereunder exceeds the Purchase Price.

10.3 Notice and Opportunity to Defend

10.3.1 Notice of Asserted Liability. The party making a claim under this Article 10 is referred to as the "Indemnitee," and the party against whom such claims are asserted under this Article 10 is referred to as the "Indemnifying Party." All claims by any Indemnitee under this Article 10 shall be asserted and resolved as follows: Promptly after receipt by an Indemnitee of notice of any demand, claim or circumstance which, with the lapse of time, would or might give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an "Asserted Liability") that may result in a Loss, the Indemnitee shall give notice thereof (the "Claims Notice") to the Indemnifying Party. The Claims Notice shall describe the Asserted Liability in reasonable detail, and shall indicate the amount (estimated, if necessary and to the extent feasible) of the Loss that has been or may be suffered by the Indemnitee. No failure or delay by the Indemnitee in the performance of the foregoing shall reduce or otherwise affect the obligation of any Indemnifying Party to indemnify and hold the Indemnitee harmless, except to the extent that such failure or delay shall have adversely affected the Indemnifying Party's ability to defend against, settle or satisfy any liability, damage, loss, claim or demand for which the Indemnitee is entitled to indemnification hereunder.

10.3.2 Opportunity to Defend. The Indemnifying Party may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Liability. If the Indemnifying Party elects to compromise or defend such Asserted Liability, it shall within thirty (30) days (or sooner, if the nature of the Asserted Liability so requires) of the Date of the Claims Notice notify the Indemnitee of its intent to do so, and the Indemnitee shall cooperate, at the expense of the Indemnifying Party, in the compromise of, or defense against, such Asserted Liability. If the Indemnifying Party elects not to defend or compromise such Asserted Liability, fails to notify the Indemnitee of its election as herein provided, contests its obligation to indemnify under this Agreement or does not defend or compromise such Asserted Liability in good faith, the Indemnitee shall have the right, in addition to any other right or remedy it may have hereunder, at the Indemnifying Party's expense, to pay, defend or compromise such Asserted Liability. The Indemnitee's defense of or its participation in the defense of any such Asserted Liability shall not in any way diminish or lessen the obligations of the Indemnifying Party under the agreements of indemnification set forth in this Section 10. The Indemnifying Party may settle or compromise any claim; provided, however, that if the settlement or compromise results in any material Liability to the Indemnitee, the consent of the Indemnitee shall be required for such settlement or compromise, which consent shall not be unreasonably withheld. In any event, the Indemnitee and the Indemnifying Party may participate, at their own expense, in the defense of such Asserted Liability. If the Indemnifying Party chooses to defend any claim, the Indemnitee shall make available to the Indemnifying

Party any books, records or other documents within its control that are necessary or appropriate for such defense.

10.4 Satisfaction of Obligations. Except for Asserted Liabilities being defended in good faith, the Indemnifying Party shall satisfy its obligations hereunder by payment in cash within thirty (30) days after the Date of the Claims Notice. The Indemnifying Party shall reimburse the Indemnitee within ten (10) days in cash for any amounts spent by the Indemnitee to satisfy a Loss incurred by the Indemnitee in connection with defending or settlement of the claim or Asserted Liability. Any tax benefit derived by the Indemnitee from any loss or expense shall be deducted from the amount owed to the Indemnitee. In addition, any proceeds from insurance shall also be deducted from the amount owed to the Indemnitee.

10.5 Date of Notice of Claim. The term "Date of the Claims Notice" as used in this Article shall mean:

(a) the third business day after the date of the postmark on the registered or certified mail containing the Claims Notice; or

(b) the date of such personal delivery or delivery by courier or electronic facsimile, if the Claims Notice is personally delivered or via a reputable air courier service (such as Federal Express) with receipt confirmed, or sent by electronic facsimile (with receipt confirmed).

10.6 Limitations on Indemnification. Notwithstanding any other provision of this Article 10, the Seller shall have no liability under any provision of this Agreement for any liabilities and damages to the extent that such liabilities and damages related to actions taken or not taken by the Buyer or its Affiliates after the Closing Date. The Buyer shall take all reasonable steps to mitigate all such liabilities and damages upon and after becoming aware of any event which could reasonably be expected to give rise to such liabilities and damages. Notwithstanding any other provision of this Agreement, in no event whatsoever shall either party hereto be entitled to make a claim against the other party for lost profits, use, production or contract or other consequential, incidental, indirect, special or punitive damages or for any financial or economic loss whatever and howsoever caused.

11. Termination of Agreement.

11.1 Termination. This Agreement may be terminated prior to the Closing as follows:

(a) by the Seller, if the Buyer has breached in any material respect any representation, warranty, covenant or agreement contained in this Agreement, which breach cannot reasonably be, or is not, cured by the Closing Date;

(b) by the Buyer, if the Seller has breached in any material respect any representation, warranty, covenant or agreement contained in this Agreement which breach cannot reasonably be, or is not, cured by the Closing Date;

(c) by the Seller, if the Closing Date shall not have occurred before October 6, 2000, for any reason other than the failure of the Seller to perform its material obligations hereunder;

(d) by the Buyer, if the Closing Date shall not have occurred before October 6, 2000, for any reason other than the failure of the Buyer to perform its material obligations hereunder; and

(e) at any time on or prior to the Closing Date, by mutual written consent of the Seller and the Buyer.

If this Agreement so terminates, it shall become null and void and have no further force or effect, except as provided in Section 11.2.

11.2 Survival After Termination. If this Agreement terminates pursuant to Section 11.1, it shall become null and void and have no further force or effect; provided that (a) none of the parties hereto shall have any liability in respect of a termination of this Agreement pursuant to Sections 11.1(c), 11.1(d) or 11.1(e) and (b) nothing shall relieve any of the parties from liability for actual damages resulting from a termination of this Agreement pursuant to Sections 11.1(a) or 11.1(b) and each party shall bear its own expenses incurred in connection therewith; and provided, further, that none of the parties hereto shall have any liability for speculative, indirect, unforeseeable or consequential damages resulting from any legal action relating to this Agreement or any termination of this Agreement.

12. Miscellaneous.

12.1 Definitions.

12.1.1 Certain Definitions. As used in this Agreement, the following terms have the following meanings:

"Affiliate" means any Person who is an "affiliate" as defined in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"Business" means the business and assets of the Seller as conducted on the date hereof, but not including the business and assets of the Collectors' Choice Music Catalog of the Seller and the CollectorsChoiceMusic.com Web site and the Collectors' Choice Music label-licensing and wholesale operations.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in the State of Illinois are authorized or required by law or executive order to close.

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

"Contracts" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, lease, deed of trust or other involvement to which such Person is a party or by which it or any of its Property is bound.

"Documents" means documents, Contracts, instruments, certificates, notices, consents, affidavits, letters, telegrams, telexes, statements, schedules (including Schedules to this Agreement), exhibits (including Exhibits to this Agreement) and any other papers whatsoever.

"Governmental Body" means any foreign or domestic, federal, territorial, state or local government authority, quasi-governmental authority, instrumentality, court, government or self-regulatory organization, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department, board, bureau or branch or official of any of the foregoing.

"Knowledge" means actual knowledge without independent investigation.

"Lien" means any lien, pledge, mortgage, security interest, claim, lease, license, charge, option, right of first refusal, easement, servitude, transfer restriction, encumbrance or any other restriction or limitation whatsoever.

"Net Closing Assets" means the total assets as reflected on the Closing Statement (other than goodwill) minus the total liabilities as reflected on the Closing Statement.

"Net Preliminary Assets" means the total assets as reflected on the Preliminary Statement (other than goodwill) minus the total liabilities as reflected on the Preliminary Statement.

"Person" means any individual, corporation, partnership, firm, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization, Governmental Body or other entity.

"PEI" means Playboy Enterprises, Inc., a Delaware corporation, and any successor to such entity.

"Playboy.com" means Playboy.com, Inc., a Delaware corporation, and any successor to such entity.

"Property" or "Properties" means real, personal or mixed property, tangible or intangible.

"Taxes" mean all federal, state, county, local, foreign and other taxes of any kind whatsoever (including, without limitation, income, profits, premium, estimated, excise, sales, use, occupancy, gross receipts, franchise, ad valorem, severance, capital levy, production, transfer, license, stamp, environmental, withholding, employment, unemployment compensation, payroll related and property taxes, import duties and other governmental charges and assessments), whether or not measured in whole or in part by net income, and including deficiencies, interest, additions to tax or interest, and penalties with respect thereto, and including expenses associated with contesting any proposed adjustment related to any of the foregoing.

"Transaction Documents" means, collectively, this Agreement, the Transitional Services Agreement, the Playboy.com Supply and Fulfillment Services Agreement, the CCM Supply and Fulfillment Services Agreement, the Warehousing and Storage Agreement, the Bill of Sale, the Assumption Agreement, the Equipment Sublease Agreement, the Real Estate Sublease and the Non-Competition Agreement.

12.1.2 Other Defined Terms. The following terms shall have the meanings ascribed in such terms in the Sections set forth below:

<u>Term</u>	<u>Section</u>
Agreement	Recitals
Arbitrator	2.2(c)
Asserted Liability	10.3.1
Assets	1.1
Assumed Contracts	1.1(b)
Assumed Liabilities	1.3
Assumption Agreement	7.3
Bill of Sale	7.3
Buyer	Recitals
Buyer Welfare Plans	6.10(b)(i)
Buyer's Dispute Report	2.2(c)
Buyer's 401(k) Plan	6.10(e)(i)
CCM	6.9
CCM Supply and Fulfillment Services Agreement	7.6
CERCLA	4.21(a)
Claims	4.7
Claims Notice	10.3.1
Closing	2.1
Closing Statement	2.2(b)
Closing Date	3
Contemplated Transactions	Recitals

<u>Term</u>	<u>Section</u>
Date of the Claims Notice	10.5
Determination	2.2(c)
Disputed Matter	2.2(c)
Effective Date	2.1(d)
Equipment Sublease Agreement	7.8
Excluded Assets	1.2
Excluded Software	1.2(f)
Final Tax Amount	2.1(a)
Financial Statements	4.9
Financial Statements Date	4.9
Fixed Assets	2.1(e)
Indemnifying Party	10.3.1
Indemnitee	10.3.1
Intellectual Property	1.1(d)
Intellectual Property Rights	4.15
Laws	4.5
Losses	10.1
Material Adverse Effect	4.1
Nonassignable Assets	6.3(b)
Non-Competition Agreement	7.12
Orders	4.3(a)
PEI's 401(k) Plan	6.10(e)(i)
Permits	4.6
Playboy.com Supply and Fulfillment Services Agreement	7.5
Preliminary Statement	1.1(a)
Prime Lease	2.1(e)
Prime Rate	2.2(d)
Purchase Price	2.1(b)
RCRA	4.21(a)
Real Estate Sublease	7.11
Real Property	4.21(b)
Scheduled Contracts	4.8
Seller	Recitals
Trade Payables	1.4(d)
Transferred Employees	1.3(a)(iii)
Transferred 401(k) Participants	6.10(e)(i)
Transitional Services Agreement	7.4
Warehousing and Storage Agreement	7.7

12.2 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally, sent by facsimile transmission or sent by certified, registered or overnight courier, postage prepaid. Any such notice shall be deemed given when so delivered personally or sent by facsimile transmission, if

delivered by commercial overnight courier service, one (1) day after delivery or, if mailed, five (5) days after the date of deposit in the United States mails, as follows:

(i) if to the Buyer, to:

Infinity Resources, Inc.
 900 North Rohlwing Road
 Itasca, Illinois 60143
 Attention: Dennis E. Abboud
 Facsimile: (630) 775-3340

with a copy to:

Huff & Gaines
 10 South La Salle Street, Suite 3500
 Chicago, Illinois 60603-1002
 Attention: John J. Gaines III, Esq.
 Facsimile: (312) 606-0027

(ii) if to the Seller, to:

Critics' Choice Video, Inc.
 680 North Lake Shore Drive
 Chicago, Illinois 60611
 Attention: Howard Shapiro, Esq.
 Facsimile: (312) 266-2042

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison
 1285 Avenue of the Americas
 New York, New York 10019-6064
 Attention: John P. McEnroe, Esq.
 Facsimile: (212) 757-3990

Any party may by notice given in accordance with this Section to the other parties designate another address or Person for receipt of notices hereunder.

12.3 Entire Agreement. This Agreement (including the Exhibits and Schedules) and any collateral agreements executed in connection with the consummation of the Contemplated Transactions contain the entire agreement among the parties with respect to the transactions contemplated hereby and supersede all prior agreements, written or oral, with respect thereto.

12.4 Waivers and Amendments; Non-Contractual Remedies. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by the Buyer and the Seller or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.

12.5 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and legal representatives. This Agreement is not assignable except by operation of law, except that the Seller may assign its rights hereunder to any of its Affiliates or to any successor to all or substantially all of its business or assets.

12.6 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto. The parties hereto confirm that any facsimile copy of another party's executed counterpart of this Agreement (or the signature page thereof) shall be deemed to be an executed original thereof.

12.7 Exhibits and Schedules. The Exhibits and Schedules are a part of this Agreement as if fully set forth herein. All references herein to Sections, Exhibits and Schedules shall be deemed references to such parts of this Agreement, unless the context shall otherwise require.

12.8 Owners or Affiliates of the Seller. Except as set forth in Section 12.14 of this Agreement, in the event of (i) an assignment by the Seller to an affiliate or owner by operation of law (i.e., as a result of a merger or consolidation) or (ii) a sale of all or substantially all of the assets of the Seller to an affiliate or owner of the Seller, the Buyer acknowledges and agrees that the obligations and liabilities of the Seller arising out of or relating to this Agreement or the Contemplated Transactions, whether known or unknown, actual, fixed, contingent or otherwise, shall not be binding upon, enforceable against or extend to the owners or affiliates of the Seller and that their sole recourse is to the assets of the Seller and not to the assets of the owners or affiliates of the Seller.

12.9 Headings. The headings in this Agreement are for reference only, and shall not affect the interpretation of this Agreement.

12.10 Expenses. Each party hereto shall bear its own costs and expenses in connection with this Agreement and the Contemplated Transactions.

12.11 **Interpretation.** Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, the feminine or neuter gender shall include the masculine, the feminine and the neuter.

12.12 **Certain Acknowledgments.** Each of the parties hereto acknowledge that it has been represented by legal counsel of its own choice throughout all negotiations and preparation and review of this Agreement and the Contemplated Transactions, and that it has executed this Agreement voluntarily. Each of the parties hereto acknowledge that it is sophisticated in transactions of the type contemplated by this Agreement and the Contemplated Transactions and each party wishes to create a relationship based on the terms set forth in this Agreement.

12.13 **Severability.** If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the parties hereto directs that such court interpret and apply the remainder of this Agreement in the manner that it determines most closely effectuates their intent in entering into this Agreement, and in doing so particularly take into account the relative importance of the term, provision, covenant or restriction being held invalid, void or unenforceable.

12.14 **Guarantee.** PEI hereby guarantees the obligations of the Seller under Section 10.1 of this Agreement.

12.15 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois applicable to agreements made and to be performed entirely within such State.

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IN WITNESS WHEREOF, the parties have executed this Asset Purchase Agreement on the date first above written.

INFINITY RESOURCES, INC.

By: 

Name: Dennis Abboud

Title: CEO

CRITICS' CHOICE VIDEO, INC.


By: 

Name: Howard J. ...

Title: V.P.

For the sole purposes of Section 6.10 and Section 12.14 of this Agreement, agreed and accepted by:

PLAYBOY ENTERPRISES, INC.

By: 

Name: Howard J. ...

Title: Senior V.P.

ASSET PURCHASE AGREEMENT SCHEDULES

Schedule 1.1(a) (Inventory and Supplies)

Videotapes, DVDs, letterhead, copy machine, legal pads, pens, pencils, staples, binders, folders, markers, paper clips, pick ticket paper, report paper, shipping labels, printer cartridges, rollers and packaging materials.

Schedule 1.2(f) (Excluded Software)

The following software is excluded:

- Microsoft Office desktop copies
- Microsoft Exchange server license
- Novell Server License
- McAfee Virus Checking License
- Mustang Server License (server located at 680 N. Lake Shore Drive)
- Infinium Financial Application Licenses (for corporate AS400)
- Showcase License
- FTP License

Schedule 4.3 (Authorization; No Contravention)

The consents and approvals described in the Agreement and related documents thereto or otherwise agreed to by the parties in the Agreement do not require a filing.

Schedule 4.6 (Permits)

The Village of Itasca has issued to Critics' Choice Video, Inc. one operating permit per business (e.g., Critics' Choice Catalog, Collectors' Choice Catalog, etc.).

A permit has been issued to Critics' Choice Video, Inc. by the Village of Itasca to operate a retail outlet store and to sell tobacco (e.g., Playboy cigars).

Schedule 4.7 (Litigation)

None.

Schedule 4.8 (Contracts)

The following material Contracts with the following parties are used by Seller in connection with the Business:

- Ameritech – Account numbers:

630-775-3300 Main Number
309T38-1424 Pay Phone
309T38-1425 Pay Phone
309T38-1426 Pay Phone
630-Z10-6166 Circuit to Fire Department
630-250-1545 Supplemental Numbers

- AT&T – 800 Numbers as follows under the main Playboy account:

800/888-258-1995
800/888-264-5076
800/367-7765
800-533-3346
800/888-544-9852
800/888-729-0833
800/888-993-6344
877-244-2665
877-274-8427
800-272-2900
800-699-2162

T-1 Circuits as follows under Playboy account:

DHEC 410068
DHEC 845969
DHEC 846095
DHEC 526951

- Advanced Feature services for following 800 Number under Playboy account: 800-367-7765

- Williams Telecommunications Solutions, LLC:

Purchase Order (“PO”) P025750
Maintenance for telephone system (expires 1/08/2000)

- ABF – Account 430489-002

- Airborne at home – Accounts 179488953 and 183525310

- Federal Express – Account 1064-0512-3

- United Parcel Service – Plan 0246-HU

- U.S. Postal Service – Permit number 16 relating to outgoing shipments

- DHL – Account 812805264

- Nicor Gas – Account 2-37-68-0502-0
- Commonwealth Edison – Account 7860197009
- Xerox Corporation – PO P-025408
- Pitney Bowes – meter rental – PO P-024344
- C&C Box and Display Co., Inc. – PO P-026528-322
- Richard Container & Paper Co. – PO P-026531-322
- Rosebud Container Corporation – PO P-026530-322
- Superior Industrial Supply Co. – PO P-026529-322
- First USA Paymentech – Merchant Number 481416
- American Express – Merchant Number 3126714013
- Discover Card – Merchant Number 601101701810812
- Equifax – Merchant Number 36-3529184
- e-Nited Business Solutions – Outside after hours and overflow customer service/order entry vendor
- ColorBank Digital Solutions, Inc. – Retail Service Provider Agreement, dated as of 4/8/97, as amended
- Mustang.com – Use of 10 licenses for customer service email
- Sungard Recovery Services, Inc. – Contract #45002861-39804-47533
- International Business Machines Corporation:
 - Contract #AC904V
 - Maintenance of AS400 (expires 12/31/00)
- TCS Management Group, Inc. – Customer # 00-0002827
- Annual Maintenance for Forecaster Scheduler and Tracker system (contract expires 10/31/00)

Schedule 4.15 (Intellectual Property)

I. U.S. Trademarks in the name of Critics' Choice Video, Inc.

Registered Marks	Registration Number	Registration Date
CC VIDEO	2275744	September 7, 1999
CRITICS' CHOICE VIDEO	2075738	July 1, 1997
ORDER IT TODAY, WATCH IT TOMORROW	1688497	May 19, 1992
ROMANCE FOR COUPLES	1855398	September 20, 1994
THE MOVIE BOOK	1706023	August 4, 1992
VIDEO SEARCH LINE	1689707	May 26, 1992 (Supp. Reg.)
THE BIG BOOK OF MOVIES	2376791	August 15, 2000

II. Domain Names owned by Critics' Choice Video, Inc.

CCVIDEO.COM
CRITICSCHOICEVIDEO.COM
CRITICSVIDEO.COM
CRITICSDVD.COM
CRITICSCHOICEDVD.COM
CCDVD.COM
COLLEGEDEPOTVIDEO.COM
CHOICECATALOGS.COM
AUCTIONVIDEOS.COM
AUCTIONDISC.COM
AUCTIONMOVIES.COM
AFTERDARKVIDEO.COM

Schedule 4.19 (Real Property)

The Seller leases the property located at 900 North Rohlwing Road, Itasca, Illinois 60143.