

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	07/25/2005

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
FAIRWAY SYSTEMS, INC.		07/25/2005	CORPORATION: COLORADO

RECEIVING PARTY DATA

Name:	THE ACTIVE NETWORK, INC.
Street Address:	10182 TELESIS COURT, SUITE 300
City:	SAN DIEGO
State/Country:	CALIFORNIA
Postal Code:	92121
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 2

Property Type	Number	Word Mark
Registration Number:	2318291	FAIRWAY SYSTEMS
Registration Number:	1673772	FAIRWAY SYSTEMS

CORRESPONDENCE DATA

Fax Number: (949)855-6371
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: (949) 855-1246
 Email: trademark@stetinalaw.com
 Correspondent Name: MATTHEW A. NEWBOLES
 Address Line 1: 75 ENTERPRISE, SUITE 250
 Address Line 4: ALISO VIEJO, CALIFORNIA 92656

ATTORNEY DOCKET NUMBER:	ACNET-000
NAME OF SUBMITTER:	MATTHEW A. NEWBOLES
Signature:	/man/

CH \$65.00 2318291

Date:

05/17/2006

Total Attachments: 31

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into as of July 25, 2005, by and among Tee Time King, Inc. a New Jersey corporation ("Seller"), the shareholders of Seller listed as signatories hereto (each a "Shareholder" and collectively, the "Shareholders"), Fairway Systems, Inc., a Colorado corporation and a wholly-owned subsidiary of Seller ("Fairway" and collectively with Seller shall be referred to as the "TTK Companies") and The Active Network, Inc., a Delaware corporation ("Buyer").

WHEREAS, the TTK Companies provide products and services to the golf industry including, but not limited to, online registration and related services (the "Business"); and

WHEREAS, Buyer desires to acquire from Seller, and Seller desires to sell to Buyer, the properties, assets and rights of Seller upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing (incorporated herein by this reference) and the mutual promises, representations, warranties, agreements and covenants set forth herein, the parties agree as follows:

ARTICLE I: CERTAIN DEFINITIONS

The following terms, as used in this Agreement, have the following meanings:

"Accounts Receivable" means (a) all trade accounts receivable and other rights to payment from customers of Seller and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers of Seller, (b) all other accounts or notes receivable of Seller and the full benefit of all security for such accounts or notes, (c) any claim, remedy or other right related to any of the foregoing; all of the foregoing are as set forth as Accounts Receivable on the books and records and Financial Statement of Seller in accordance with GAAP principles.

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling, controlled by, or under common control with such other Person.

"Ancillary Agreements" shall mean all agreements attached or to be attached as Exhibits to this Agreement.

"Assignment and Assumption Agreement" means that certain Assignment and Assumption Agreement to be entered into as of the Closing by and between Seller and Buyer regarding the assignment of the Assets and the assumption of the Assumed Liabilities, in substantially the form attached hereto as Exhibit A.

"Bill of Sale" means that certain bill of sale for the Assets to be executed and delivered by Seller as of the Closing, substantially in the form attached hereto as Exhibit B.

"Crystal Springs Resorts" means the group of companies that conduct real estate development and operate, hotel, golf and banquet facilities at properties in New Jersey known as Crystal Springs, Wild Turkey, Black Bear, Ballyowen, Great Gorge, Minerals, Elements Spa and Cascades Grand Lodge.

"Disclosure Schedule" collectively refers to all Schedules attached hereto in response to the representations, warranties and disclosures made by Seller in Articles II, III, IV, V, VI, and VII, which

Schedules shall designate the specific numbered and lettered sections and subsections of this Agreement to which they correspond. The latest draft of the Disclosure Schedule that is attached to this Agreement on or prior to the Closing shall be deemed to be the final Disclosure Schedule and shall supersede and replace all prior drafts of the Disclosure Schedule.

"Employment Agreement" means that certain Employment Agreement to be entered into as of the Closing by and between Buyer and Chris Mulvihill substantially in the form attached as Exhibit C.

"Exhibit" means any writing identified in this Agreement as an exhibit or attached to this Agreement as an exhibit.

"Facilities" means the facilities leased by Seller and located at 355 Madison Avenue, Morristown, NJ 0707960 and the facilities leased by Fairway and located at 6 Inverness Court East, Suite 120, Englewood CP 80112 and one employee based at City and County of Honolulu, Golf Division, 404 Kapchula Avenue, Honolulu, HI 96815.

"GAAP" means the United States Generally Accepted Accounting Principles as in effect as of the date of the Agreement.

"Lien" means any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first refusal or similar restriction, right of first option, encumbrance or restriction of any nature whatsoever.

"Material Adverse Change or Effect" shall mean, with respect to a party, a change or an effect, changes or effects which would , individually or in the aggregate, have material adverse effect on the assets, liabilities (whether absolute, accrued, contingent, or otherwise)results of operations, business or prospects of such party.

"Non-Competition Agreement" shall mean the Non-Competition Agreement to be entered into by and between Buyer and each of Chris Mulvihill, Gene Mulvihill, Donald Jagoda, Gordon Cien, Rosalind Davidowitz, Timothy Bramlet and Edward Baker, substantially in the form attached hereto as Exhibit D.

The term "or" is used in this Agreement in the inclusive sense of "and/or."

"Permits" means any franchises, licenses, permits, consents, authorizations, certificates and approvals of any federal, state, or local regulatory, administrative, or other governmental agency or body issued to or held by Seller.

"Permitted Encumbrances" means Liens that are specifically listed on Schedule 5.12 (c).

"Person" means an individual, a corporation, a limited liability company, a partnership, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

The term "record" or "records" refers to information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Schedule" means a schedule attached to this Agreement as an exception to or disclosure regarding a representation, warranty, covenant, agreement or other provision set forth in this Agreement.

"Subsidiary" means any entity in which the TTK Companies have any ownership interest whether in the form of capital stock or otherwise.

ARTICLE II: PURCHASE AND SALE OF ASSETS

Section 2.1 Description of Assets to be Acquired. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, but effective as of the Closing Date, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase and acquire from Seller, free and clear of any Liens other than Permitted Encumbrances, all of Seller's right, title and interest in and to all of Seller's property and assets, real, personal or mixed, tangible and intangible, of every kind and description, wherever located, including the following (but excluding the Excluded Assets):

(a) All furniture, fixtures, furnishings, equipment (including, without limitation, all computer hardware and software, computer files, supplies, billing and office support equipment, telecommunications equipment and records used in or necessary to operate, staff, prepare and collect bills and maintain the Business or any portion thereof) appliances and all other tangible personal property of every kind, manner and description owned by Seller, whether or not reflected as capital assets on the accounting records of Seller, including without limitation the material tangible items of personal property listed on Schedule 2.1(a) hereto;

(b) All improvements to which Seller has title with respect to real property and buildings leased by Seller pursuant to the real property leases for the Facilities to which Seller has title;

(c) All of Seller's claims and rights under all agreements, contracts, contract rights, leases, licenses, purchase and sale orders, quotations, and other executory commitments (collectively, the "Contracts"), including but not limited to the Contracts listed on Schedule 2.1(c) hereto, and all outstanding offers or solicitations made by or to Seller to enter into any Contract;

(d) All current assets of Seller, including without limitation all (i) Accounts Receivable and (ii) inventory;

(e) All Permits of Seller or with respect to the Assets, and pending applications therefor or renewals thereof, in each case to the extent such can be transferred, conveyed, assigned or sold to Buyer under applicable law, including without limitation those listed on Schedule 2.1(e) hereto;

(f) All of Seller's right, title and interest in and to copyright rights, trade secret rights, trademark and service mark rights, trade names, logos, patents, patent applications, patent rights, and all other intellectual property and proprietary rights worldwide together with all of Seller's right, title and interest in and to any underlying inventions, improvements, processes, technical information, know-how, standards, processes, procedures, computer software, algorithms, designs, formulas, data, ideas, techniques, confidential and proprietary information, customer lists, supplier lists, Internet domain names, Internet web sites and other information related in any manner to the Business or in which Seller has any proprietary interest, together with all of the goodwill associated therewith (collectively, the "Proprietary Rights"), including without limitation those listed on Schedule 2.1(f) hereto;

(g) All data and records related to the Assets or the operation of Seller, including without limitation client and customer lists and records, supplier lists and records, referral sources, research and development reports and records, standards, templates, processes and procedures, personnel and payroll records, service and warranty records, equipment logs, operating guides and manuals,

financial and accounting records, creative materials, advertising materials, promotional materials, studies, reports, plans, correspondence and other similar documents;

(h) All insurance benefits, including without limitation rights and proceeds, arising from or relating to the Assets or the Assumed Liabilities;

(i) All of Seller's rights, if any, under express or implied warranties from suppliers and vendors of Seller;

(j) All of Seller's causes of action, judgments, and claims or demands of whatever kind or description relating to the Assets, whether choate or inchoate, known or unknown, contingent or non contingent, including all such claims listed in Schedule 2.1(j) hereto;

(k) All rights of Seller relating to deposits and prepaid expenses, claims for refunds and rights to offset in respect thereof;

(l) All goodwill associated with Seller (the "Goodwill");

(m) All tangible or intangible assets (including all trademarks, patents and intellectual property and Proprietary Rights) owned by Shareholders that in any way relate to the Business or are necessary to the operation of the Business;

(n) All equity interest that Seller owns in any other entity including all outstanding capital stock of Fairway; and

(o) All of Seller's other intangible and tangible property, including without limitation all assets not heretofore mentioned.

The assets, properties, and rights to be conveyed, sold, transferred, assigned, and delivered to Buyer pursuant to this Section 2.1 are sometimes hereinafter collectively referred to as the "Assets." Notwithstanding the foregoing or anything to the contrary in this Agreement, the transfer of the Assets pursuant to this Agreement shall not include the assumption of any liability or obligation related to the Assets, Seller or the Business unless Buyer specifically and expressly assumes such liability or obligation pursuant to Section 3.1. Solely for the purposes of Articles III, V, VII, VIII, IX, X, XI and XII, the Assets shall include all the tangible and intangible assets of Fairway.

Section 2.2 Excluded Assets. Notwithstanding anything to the contrary in this Section 2.2 or elsewhere in this Agreement, the term Assets does not refer to any of the assets related to the Business that are specifically described on Schedule 2.2 hereto (the "Excluded Assets"). The Excluded Assets are not part of the sale and purchase of the Assets contemplated hereunder and shall remain the property of Seller after the Closing.

Section 2.3 Closing. The consummation of the transactions contemplated by this Agreement, including without limitation the sale and purchase of the Assets, the payment of the Purchase Price, and the assumption of the Assumed Liabilities (the "Closing"), shall take place after the close of business on the first business day on which the last of the conditions contained in Article XI hereof is fulfilled or waived by the applicable party (the "Closing Date"). Notwithstanding anything to the contrary herein contained, in no event shall the Closing Date occur after the date which is five (5) days following the date hereof, unless Buyer and Seller otherwise agree in writing to extend such five (5) day period. The Closing shall take place at the office of Buyer at 10182 Telesis Court, Suite 300, San Diego, California 92121.

ARTICLE III: LIABILITIES

Section 3.1 Assumed Liabilities. Subject to Section 3.2 hereof, Buyer hereby agrees on the Closing to assume, satisfy or perform within 180 days of the Closing Date, or such later date if reasonable and permissible, only those liabilities and obligations of Seller and Fairway which are specifically identified on Schedule 3.1 hereto (collectively, the "Assumed Liabilities").

Section 3.2 Liabilities Not Assumed. Other than the Assumed Liabilities listed on Schedule 3.1, Buyer shall not assume, nor shall Buyer or any Affiliate of Buyer, be deemed to have assumed or guaranteed, any liability or obligation of any nature of Seller or Fairway, or claims of such liability or obligation, whether accrued, matured or unmatured, liquidated or unliquidated, fixed or contingent, known or unknown arising out of (a) acts or occurrences, or related to any of the Assets, prior to the Closing Date or (b) any other liability, debt or obligation of Seller or Fairway (collectively, the "Unassumed Liabilities") which Unassumed Liabilities shall be entirely assumed by and shall be the obligations of Seller.

ARTICLE IV: PURCHASE PRICE

Section 4.1 Consideration. Upon the terms and subject to the conditions contained in this Agreement, in consideration for the Assets and the other forms of consideration to be given by Seller and in full payment therefor, Buyer will pay, or cause to be paid, the purchase price set forth in Section 4.2 hereof to Seller, subject to the provisions set forth in Section 4.3, and Buyer will assume all of the Assumed Liabilities listed on Schedule 3.1 attached hereto.

Section 4.2 Payment of Purchase Price. Subject to Section 4.3, the purchase price ("Purchase Price") to be paid or payable by Buyer to Seller for the Assets shall be One Million Four Hundred and Fifty Thousand Dollars (\$1,450,000) plus 200,000 shares of Buyer's common stock ("Common Stock"). The cash portion of the Purchase Price, less the amount deposited in escrow pursuant to Section 4.3, shall be payable by cashier's check or wire transfer to Seller at the Closing.

Section 4.3 Escrow. On the Closing Date, Buyer will deposit in escrow (the "Escrow Deposit") \$600,000 of the Purchase Price which shall be held as security for the indemnification obligations of Seller and each Shareholder, pursuant to the provisions of the Escrow Agreement, to be entered into at the Closing (the "Escrow Agreement") which shall be substantially in the form attached hereto as Exhibit E.

Section 4.4 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets in the manner provided for in Schedule 4.4 hereto, which the parties acknowledge was prepared using the allocation methods and principles required by the Internal Revenue Code of 1986, as amended (the "Code"), and the U.S. Department of Treasury regulations promulgated thereunder. Neither Buyer nor Seller shall take any position inconsistent with such allocation, and any and all filings with and reports made to any taxing authority will be consistent with that allocation.

Section 4.5 Earnout Payment. As soon as practicable following the one year anniversary of the Closing Date, in the event the total profit before taxes ("PBT") generated by the Assets is greater than \$500,000 for such one year period ("Earnout Period"), Buyer shall issue to Seller up to an additional 400,000 shares of Common Stock (the "Earnout Payment"). The determination of PBT and the Earnout Payment are more specifically described in Schedule 4.5 hereto.

ARTICLE V: REPRESENTATIONS AND WARRANTIES OF THE TTK COMPANIES AND SHAREHOLDERS

Except as set forth on Schedule 5 hereto (which Schedule specifically identifies the exceptions to the relevant subparagraph of this Section 5), the TTK Companies and Shareholders jointly and severally represent, warrant and covenant to Buyer, as of the date hereof and as of the Closing Date, that:

Section 5.1 Organization and Good Standing. Each TTK Company is a corporation duly organized, validly existing and in good standing under the laws of the State in which it was incorporated, and has all requisite power and authority to own and operate its business in the places where such business is now conducted and to directly own, lease, and operate the Assets. Each TTK Company is duly qualified or licensed to do business, and is in good standing, in each of the jurisdictions in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification or licensing.

Section 5.2 Capitalization. The authorized capital stock of Seller consists of two thousand (2,000) shares of common stock, no par value, of which two thousand (2,000) shares are issued and outstanding (the "Issued Shares"). One Thousand Four Hundred (1,400) shares of the Issued Shares are held by the Shareholders, and no other Person has any beneficial interest in any of the Issued Shares, except as follows:

Donald Jagoda 200 shares; Gordon Cien 200 shares; and Edward Baker 200 shares

The Issued Shares have been duly and validly issued by Seller and are fully paid and nonassessable. There are no outstanding options, warrants or other rights to subscribe for, purchase or acquire, or any plans, contracts or commitments providing for the issuance of, any capital stock of Seller or any securities convertible into or exchangeable for any capital stock of Seller. All the outstanding capital stock of Fairway is owned by Seller.

Section 5.3 Authorization. The TTK Companies and Shareholders have full power and authority to enter into this Agreement and each of the Ancillary Agreements, to perform their respective obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby, including, without limitation, the execution and delivery of each Ancillary Agreement. This Agreement and each Ancillary Agreement constitutes the valid and binding obligation of the TTK Companies and Shareholders enforceable in accordance with its terms.

Section 5.4 Subsidiaries. Except with respect to Seller's ownership interest in Fairway, neither of the TTK Companies presently own or control, directly or indirectly, or hold any rights to acquire, any interest in any other corporation, limited liability company, association or other business entity. Neither TTK Company is a participant in any joint venture, partnership or similar arrangement, nor have the TTK Companies ever been a participant in any such arrangement.

Section 5.5 Financial Information. Seller has delivered to Buyer (a) unaudited balance sheets of Seller as at December 31 for each of the fiscal years 2003 and 2004, and the related unaudited statements of income, changes in stockholders' equity for each of the fiscal years then ended, (b) an unaudited balance sheet as at the six-month period ended June 30, 2005 and the related unaudited statements of income and changes in stockholders' equity for the period then ended, and (c) an unaudited balance sheet as at the six-month period ended June 30, 2005 for Fairway and the related unaudited statements of income and changes in stockholders' equity for the period then ended. The financial statements referred to in this Section 5.5 are sometimes collectively referred to in this Agreement as the "Financial Statements." Each Financial Statement is complete and correct in all respects and has been

prepared in accordance with generally accepted accounting principals ("GAAP") on a consistent basis, and each is in accordance with the books and records of Seller. Each Financial Statements fairly and accurately presents the financial position of Seller as of its respective date for balance sheet and for the periods indicated for the statements of income and changes in stockholders' equity. Without limitation, the Financial Statements reflect all sales which have been made with respect to services or personal property to be provided in the future by Seller, and no income has been accrued by Seller which has not yet been earned, except as set forth in Seller's Financial Statements and Books and Records as prepared in accordance with GAAP. No Financial Statement contains any untrue statement of material fact or omits or fails to state any material fact necessary to make such Financial Statement not misleading to a Person contemplating an acquisition of Seller or Fairway, the outstanding capital stock of Seller or Fairway, the Assets, or any portion thereof. Seller has delivered to Buyer copies of all letters from Seller's accountant(s) or bookkeeper(s) to Seller or Shareholders during the twelve (12) months preceding the execution of this Agreement, together with copies of all responses thereto.

Section 5.6 Absence of Certain Changes and Events. Since June 30, 2005:

(a) There has not been any change in the method of operating the TTK Companies' business, and there has not been any change in the assets, liabilities, financial condition or operating results of the TTK Companies from that reflected in the Financial Statements, except for changes which, individually or in the aggregate, have not had, and could not be expected to have, a Material Adverse Effect (for the purposes of this Section 5.6, Material Averse Effect shall include, but not be limited to, an aggregate reduction in assets or an increase in liability in excess of \$10,000);

(b) No Person has made, with respect to the TTK Companies or the Assets, any capital expenditures or incurred or paid expenses exceeding \$10,000 in the aggregate of all such capital expenditures or expenses

(c) No Person has created, incurred, assumed, or guaranteed any indebtedness, relating to the TTK Companies or the Assets;

(d) There has not been the loss of any vendor to the TTK Companies whose services could not easily and promptly be replaced on substantially the same terms;

(e) No Person has made any change in any of the banking or safe deposit arrangements relating to the TTK Companies or the Assets;

(f) There has not been any dividend or distribution (or declaration of any dividend or other distribution) to any shareholder or other holder of any beneficial interest in, or cash or property of, the TTK Companies;

(g) No Person has entered into any transaction relating to the TTK Companies other than in the ordinary course of business consistent with prior practice; or

(h) There has not been any other event or condition of any character that has had a Material Adverse Effect or could be expected to have a Material Adverse Effect.

Section 5.7 No Undisclosed Liabilities. Except as set forth in the Financial Statements, there are no debts, claims, liabilities, or obligations with respect to the TTK Companies or to which the Assets are subject, whether liquidated, unliquidated, accrued, absolute, contingent or otherwise. Except as disclosed in Schedule 5, the TTK Companies are not a guarantor or indemnitor of any indebtedness of any other Person. Neither the TTK Companies nor any Shareholders have, at any time, (i) made a general assignment for the benefit of creditors, (ii) filed, or had filed against it, any bankruptcy petition or similar

filing, (iii) suffered the attachment or other judicial seizure of all or a substantial portion of its assets, (iv) admitted in writing its inability to pay its debts as they become due, (v) been convicted of, or pleaded guilty or no contest to, any felony. As of and based on the financial condition of the TTK Companies as of the Closing Date, after giving effect to the transactions contemplated hereby and the receipt by Seller of the amount to be paid on the Closing Date under Section 4.2 hereunder, the fair saleable value of Seller's remaining assets exceeds the amount that will be required to be paid on or in respect of the TTK Companies' debts and other liabilities (including known contingent liabilities and any Unassumed Liability) as they mature, except as set forth in the latest Financial Statement supplied to Buyer.

Section 5.8 Compliance with Law; Permits.

(a) The TTK Companies have complied and are in compliance with all applicable federal, state, and local laws, statutes, licensing requirements, rules, and regulations, and judicial or administrative decisions applicable to the TTK Companies, their business or the Assets. There is no order issued, investigation, or proceeding pending or threatened, or notice served with respect to any violation of any law, ordinance, order, writ, decree, rule, or regulation issued by any federal, state, local, or foreign court or governmental or regulatory agency or instrumentality applicable to the TTK Companies, their business or the Assets.

(b) The TTK Companies and their employees have been granted all Permits from federal, state, and local government regulatory bodies necessary to carry on the Business, all of which are currently valid and in full force and effect Schedule 2.1(e) correctly describes each Permit materially affecting, or relating in any material way to, the TTK Companies's business or the Assets, together with the name of the government agency or entity issuing such Permit. Except as set forth on Schedule 5: (i) each such Permit that is identified on Schedule 2.1(e) is transferable by the TTK Companies to Buyer; and (ii) none of such Permits will be terminated or impaired or become terminable as a result of the transactions contemplated by this Agreement; and (iii) upon consummation of the transactions contemplated by this Agreement, Buyer will have all of the right, title and interest in such Permits.

Section 5.9 Governmental Consents. No consent, approval, order, or authorization of, or registration, qualification, designation, declaration, or filing with any federal, state, local, or foreign governmental authority on the part of the TTK Companies is required in connection with the consummation of the transactions contemplated hereunder.

Section 5.10 Proprietary Rights.

(a) Set forth on the Schedule 2.1(f) is a complete and accurate list and brief description of all Proprietary Rights owned, used or held by the TTK Companies. The Proprietary Rights are all the intellectual property and proprietary rights necessary or useful for the operation of the Business as it is currently conducted and has been conducted prior to the Closing. The TTK Companies have complete and undisputed title and ownership of or adequate rights (license or otherwise) to utilize all Proprietary Rights without any conflict with or infringement of the rights of any other Person. There are no outstanding options, licenses, or agreements of any kind relating to the Proprietary Rights, nor are the TTK Companies or the Business bound by or a party to any options, licenses or agreements of any kind with respect to the proprietary rights of any other Person (except for software licenses rightfully obtained by the TTK Companies arising from the purchase of "off the shelf" or other standard products).

(b) Neither the TTK Companies nor any Affiliate, director, officer, employee or agent of the TTK Companies has infringed, or is currently infringing on, any proprietary right of any other Person. Neither the TTK Companies nor any Affiliate, director, officer, employee, consultant, contractor, representative, agent or advisor is aware that any Person has alleged or is alleging that the

TTK Companies (or any director, officer, employee, consultant, contractor or agent of the TTK Companies) have violated any proprietary right of any other Person.

(c) Neither the TTK Companies nor any Shareholder is aware that any of directors, officers, employees, consultants or contractors of the TTK Companies is obligated under any agreement (including without limitation licenses, covenants or commitments of any nature), or subject to any judgment, decree, writ or order of any court or administrative agency, that would interfere with the use of such director's, officer's, employee's, consultant's or contractor's best efforts to promote the interests of the TTK Companies or that would conflict with the Business as currently conducted or proposed to be conducted. Neither the execution nor delivery of this Agreement or any Ancillary Agreement, nor the carrying on of the Business as currently conducted or proposed to be conducted, will conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, any contract, covenant or instrument under which the TTK Companies or any director, officer, employee, consultant or contractor of the TTK Companies is now obligated.

(d) None of the trade secrets or other confidential or proprietary information relating to the TTK Companies or the Business, the value of which to the TTK Companies is contingent upon maintenance of the confidentiality thereof (including, without limitation, standards, processes, procedures, formulae, techniques, know-how, research and development results, business or product information or plans, and customer lists), has been disclosed by the TTK Companies (or any of its directors, officers or employees) to any Person other than officers, employees or consultants to the TTK Companies. Each officer or employee or, or consultant to, the TTK Companies has executed a written agreement with the TTK Companies protecting the Proprietary Rights, preventing the disclosure of such Proprietary Rights, and assigning to the TTK Companies any rights such Person has or might have in such Proprietary Rights. The TTK Companies and Shareholders, after reasonable investigation, are not aware that any of the TTK Companies' employees, officers or consultants are in violation of any such agreement, and the TTK Companies and Shareholders will use their best efforts to prevent any such violation through the Closing Date.

Section 5.11 Contracts and Commitments.

(a) The Contracts described on Schedule 2.1(c) list all outstanding agreements, contracts, contract rights, leases, licenses, purchase and sale orders, quotations and other executory commitments to which the TTK Companies are a party or to which any of the Assets are subject, including the parties and the dates (including expiration dates) thereto.

(b) The TTK Companies have performed all of their obligations under the terms of each Contract to the full extent that such obligations are required to be performed prior to the date of this Agreement and the TTK Companies are not in default under any such Contract; and the TTK Companies will perform, up to and through the Closing Date, all of the TTK Companies' obligations under each such Contract to the full extent such obligations are required to be performed on or before the Closing Date. No event or omission has occurred which but for the giving of notice or lapse of time or both would constitute a default or breach by any party thereto under any such Contract. Each Contract is valid and binding on all parties thereto and in full force and effect. Neither the TTK Companies nor any of its Affiliates, directors, officers, employees, contractors, consultants, representatives, agents or advisors has received any notice of default, cancellation, or termination in connection with any such Contract, nor are the TTK Companies or any of its Affiliates, directors, officers, employees, contractors, consultants, representatives, agents or advisors aware of any intention of any party to any such Contract to provide any such notice.

(c) Schedule 5 lists completely and accurately all Contracts, under the heading "Contracts Requiring Novation or Consent to Assignment," that require any novation or consent to

assignment prior to the Closing Date. On or before the Closing Date, the TTK Companies shall obtain the novation or consent to assignment with respect to each Contract listed under the heading "Contracts Requiring Novation or Consent to Assignment" on Schedule 5.

Section 5.12 Properties.

(a) The TTK Companies own no real property. Schedule 5 lists all real or personal property leased or subleased to the TTK Companies. The TTK Companies have delivered to Buyer correct and complete copies of the leases and subleases (including any and all amendments to such leases and subleases) listed on Schedule 5.

(b) The equipment and other tangible assets that the TTK Companies own or leases are free from material defects, have been maintained in accordance with normal industry practice, and are in good operating condition and repair (subject to normal wear and tear) and are usable in the ordinary course of business.

(c) With respect to the property and assets they lease (whether such property or assets are real or personal), the TTK Companies are in compliance with such leases and hold a valid leasehold interest free of any Liens except for Permitted Encumbrances.

Section 5.13 Assets; Title to the Assets.

(a) The TTK Companies have not experienced any damage, destruction, or loss (whether or not covered by insurance) to their property (including any Asset) which has had or could be expected to have a Material Adverse Effect. There has not occurred, during the twelve (12) months preceding the date of this Agreement and preceding the Closing Date, any sale, lease or disposition of, or any agreement to sell, lease or dispose of, any of the assets of the TTK Companies, other than sales, leases, or dispositions in the ordinary course of business consistent with prior practice.

(b) The Assets include, without limitation, (i) all property in which the TTK Companies have any right, title, and interest that is necessary to operate the Business in the same manner as the Business was operated by the TTK Companies prior to the Closing Date, and (ii) all of the operating assets of the TTK Companies relating to the Business. Except for Permitted Encumbrances or as set forth on Schedule 5, the TTK Companies have good and marketable title to the Assets free and clear of any Liens. Any and all Liens affecting the Assets, with the exception of Permitted Encumbrances, shall be terminated on or prior to the Closing, and the TTK Companies shall transfer the Assets to Buyer free and clear of all such Liens. By virtue of the deliveries made at the Closing, Buyer will obtain good and marketable title to the Assets.

Section 5.14 Litigation. There is no claim, litigation, arbitration, action, suit, or proceeding, administrative, judicial or otherwise, pending or threatened relating to the TTK Companies or the Business or involving the Assets, at law or in equity, before any federal, state, local, or foreign court, regulatory agency, or other governmental authority, including, without limitation, any unfair labor practice or grievance proceeding or otherwise, or before any private arbitration or mediation firm or panel. There are no judgments, or outstanding orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency or by arbitration) relating to the TTK Companies or the Business or involving the Assets.

Section 5.15 No Conflict or Default. Neither the execution and delivery of this Agreement or any of the Ancillary Agreements, nor compliance with the terms and provisions of this Agreement or any Ancillary Agreements, including without limitation, the consummation of the transactions contemplated by this Agreement or any Ancillary Agreement, will violate any statute, regulation, or ordinance of any

governmental authority, or conflict with or result in the breach of any term, condition, or provision of any agreement, deed, contract, mortgage, indenture, writ, order, decree, legal obligation, or instrument to which the TTK Companies are a party or by which the TTK Companies or any of the Assets are or may be bound, or constitute a default (or an event which, with the lapse of time or the giving of notice, or both, would constitute a default) thereunder.

Section 5.16 Labor Relations.

(a) The TTK Companies are in compliance in all material respects with Title VII of the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, as amended, the Occupational Safety and Health Act of 1970, as amended, all applicable federal, state, and local laws, rules, and regulations relating to employment, and all applicable laws, rules and regulations governing payment of minimum wages and overtime rates, and the withholding and payment of taxes from compensation of employees.

(b) There is no written or oral separation, severance or golden parachute agreement with any service provider of the TTK Companies, except as set forth on Schedule 5. All employment relationships, whether written or oral, between the TTK Companies and their employees associated with the Business are "at will."

(c) Schedule 5 lists all the employees of the TTK Companies, under the heading "Employees," and all the consultants to the TTK Companies, under the heading "Consultants," that provide services for the TTK Companies and their applicable position, and the annual compensation (for employees, salary, bonuses and other benefits; and for consultants, consulting fees and other compensation) of each such employee or consultant as of the Closing Date. No officer or employee of the TTK Companies has resigned or been terminated; and neither the TTK Companies nor Shareholders are aware of the impending resignation or termination of any such officer or employee or of any reasonable basis therefor.

(d) At no time during the twelve (12) months preceding the date of this Agreement and preceding the Closing Date did the TTK Companies have one hundred (100) or more employees. The TTK Companies have not violated, and in connection with the consummation of the transactions contemplated by this Agreement will not violate, the Worker Adjustment and Retraining Notification Act or any similar state or local law, rule or regulation.

(e) All payments due from the TTK Companies on account of employee health and welfare insurance have been paid or will be paid prior to the Closing Date. Except as set forth on Schedule 5, all severance, bonus and vacation payments by the TTK Companies or the Business which are or were due under the terms of any agreement have been paid or will be paid prior to the Closing Date.

(f) Except in the ordinary course of business consistent with prior practice, neither the TTK Companies, Shareholders nor any Person on behalf of the TTK Companies or Shareholders has made any loan to, entered into any transaction with, made any changes in any employment or consulting terms with, or granted any salary or compensation increase, bonus or extraordinary payment to, any director, officer or employee of or consultant to the TTK Companies or to any Affiliate of any of any such director, officer, employee or consultant.

(g) There does not exist any collective bargaining agreement relating to the TTK Companies, the Business or the Assets. No labor organization or group of employees of the TTK Companies has made a pending demand for recognition or certification, and there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or threatened

to be brought or filed, with the National Labor Relations Board or any other labor relations tribunal or authority. There are no organizing activities, strikes, work stoppages, slowdowns, lockouts, arbitrations or material grievances, or other labor disputes pending or threatened against or involving the TTK Companies.

Section 5.17 Brokers' and Finders' Fees. Except as referenced in the Schedule 5, neither the TTK Companies nor any Shareholders is obligated to pay any fees or expenses of any broker or finder in connection with the origin, negotiation, or execution of this Agreement or any of the Ancillary Agreements or in connection with any transactions contemplated hereby or thereby.

Section 5.18 Customers. The TTK Companies have furnished Buyer with complete and accurate copies or descriptions of all current agreements with the TTK Companies' customers, as such agreements exist as of the date of this Agreement. The TTK Companies shall provide Buyer with complete and accurate copies or descriptions of any customer agreements (or sales proposals made to customers) made, modified or terminated on or after the date of this Agreement through the Closing Date. Neither the TTK Companies nor Shareholders have received any notice that there has been a loss of, or any business cancellation, except for the termination of Contracts with Customers by the terms thereof, by, any customer of the TTK Companies, and neither the TTK Companies nor Shareholders know of any reasonable basis for any such loss

Section 5.19 Books and Records. The books of account, minute books, stock record books, and other records of the TTK Companies have been made available for inspection to Buyer and its representatives, are full, complete and accurate and have been maintained in accordance with sound and reasonable business practices. The minute books of the TTK Companies contain full, complete and accurate records of all meetings and other corporate actions taken by the directors and shareholders of the TTK Companies. At the Closing, all of the books and records of Fairway will be in the possession of Buyer and at the Facilities.

Section 5.20 Accounts Receivable. The amount of all Accounts Receivable, unbilled invoices and other debts due the TTK Companies or recorded in the records and books of account of the TTK Companies as being due to the TTK Companies as at the Closing Date relating to the Business will be good and receivable in the ordinary course of business, consistent with past practice, net of allowances for doubtful accounts and discounts; no contest with respect to the amount or validity of any amount is pending; and none of such Accounts Receivable or other debts is or will be as of the Closing Date subject to any counterclaim, return or set-off, except for those debts set forth as "Bad Debts" in the Financial Statements. The values at which Accounts Receivable are carried reflect the accounts receivable valuation policy of the TTK Companies which is consistent with its past practice and in accordance with GAAP applied on a consistent basis. The TTK Companies represent that they are not aware of any reason why such Accounts Receivable will not be collectible in due course.

Section 5.21 Insurance. The TTK Companies have in full force and effect fire and casualty insurance policies, with extended coverage, sufficient in amount (subject to reasonable deductibles) to allow it to replace any of its properties or assets that might be damaged or destroyed. The TTK Companies have in full force and effect comprehensive general liability and errors and omissions insurance policies in amounts customary for companies similarly situated, each of which policies have commercially reasonable terms and provisions. Each of the TTK Companies' insurance policies (a) is listed and summarized on Schedule 5 and (b) shall remain binding and in full force and effect through the Closing Date and otherwise in accordance with their respective provisions. Schedule 5 includes (i) a list of all claims made by or against the TTK Companies or any other Person employed by or contracted with the TTK Companies (whether currently or in the past), under any insurance policy maintained with respect to the TTK Companies during any part of the last ten (10) years, including for each such claim the name of the insuring entity, the policy number, the amount of insurance coverage, any applicable

deductible, the nature and amount of the claim, and the resolution and status of the claim, and (ii) a list of all liability insurance coverage maintained with respect to the TTK Companies during any part of the last ten (10) years, including, for each applicable policy, the name of the insuring entity and the applicable policy number as well as the amount of insurance coverage, the premiums and deductible therefore. The TTK Companies have made available to Buyer true and complete copies of all insurance policies listed on Schedule 5.

Section 5.22 Environmental Matters. The TTK Companies, the operation of their business and any real property that the TTK Companies own or have owned, lease or have leased or otherwise occupy or use or have occupied or used (the "Premises") are (and, at all times, have been) in compliance with all applicable Environmental Laws (as defined below) and orders or directives of any governmental Person having jurisdiction under such Environmental Laws. The TTK Companies have not received any citation, directive, letter or other communication, written or oral, or any notice of any proceeding, claim or lawsuit, from any Person arising out of the ownership or occupation of any of the Premises, or the conduct of the TTK Companies' operations (including, without limitation the Business), and neither the TTK Companies nor Shareholders are aware of any basis therefor. With respect to the Business and the operation thereof after the Closing, no material expenditures are or will be required in order to comply with any Environmental Laws. There has been no Reportable Release of Hazardous Materials at, from or onto the Premises or, to the best knowledge of the TTK Companies and Shareholders, at, from or onto any real property adjacent to the Premises. As used herein: "Environmental Laws" shall mean any federal, state, local or foreign law, ordinance, rule, regulation, permit and authorization pertaining to the protection of human health or the environment; "Hazardous Materials" means any chemical, pollutant, contaminant, waste, toxic substance, hazardous substance, hazardous waste, radioactive material, asbestos, genetically modified organism, or petroleum or petroleum product, as any such category is defined or otherwise described in any applicable Environmental Law; and "Reportable Release" means any release of Hazardous Materials that is required under any applicable Environmental Law to be reported to any governmental body or Person.

Section 5.23 Affiliate Relationships. Except as described in the Schedule 5, neither the TTK Companies nor any Affiliate, director, officer or employee of the TTK Companies (nor any spouse of any such Person, or any trust, partnership, limited liability company, corporation, proprietorship, association or other business entity in which any such Person has or has had a material economic interest), has or has had, directly or indirectly, (a) an interest in any Person which provides or sells a material amount of services or products that the TTK Companies provide or sell or propose to provide or sell, or (b) any interest in any Person that purchases from or sells or provides to the TTK Companies any material amount of products or services. Except as described in the Schedule 5, no Affiliate, director, officer or employee of the TTK Companies (or any spouse of any such Person, or any trust, partnership, limited liability company, corporation, proprietorship, association or other business entity in which any such Person has or has had a material economic interest), has or has had, directly or indirectly, any beneficial interest in any Contract.

Section 5.24 Investment Representations. Seller acknowledges that any capital stock issued by Buyer to Seller in connection with the Purchase Price and/or the Earnout Payment are being transferred in reliance upon exemptions from registration based, in part, upon Seller's representations contained herein. Seller is acquiring such securities for its own account and not with a view to, or for sale in connection with, any distribution thereof. Seller acknowledges that such securities may not be sold or transferred unless such sale or transfer is registered or qualified with the appropriate securities authorities or unless an opinion of counsel, reasonably satisfactory to Buyer, is rendered that there then exists an exemption from such registration or qualification applicable to such sale or transfer. Seller is an "accredited investor" within the meaning of Regulation D promulgated under United States Securities Act of 1933, as amended. Seller shall not dissolve and shall remain as a legal entity for at least a period of

one year after the Closing Date and shall not transfer any of Buyer's common stock during such time period.

Section 5.25 Complete Disclosure. The TTK Companies and each Shareholder have fully provided Buyer with all the information that Buyer (or its members, representatives or advisors) has requested for deciding whether to purchase the Assets and all information that the TTK Companies and Shareholders reasonably believe is necessary to enable Buyer to make such decision. No representation or warranty by the TTK Companies or Shareholders in this Agreement or any of the Ancillary Agreements contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein in the context in which they were made not misleading. The Shareholders acknowledge and represent that this Agreement and the transactions contemplated by it have been negotiated and consummated in an arms-length dealing and that the parties were not affiliated in any way prior to the consummation of said transaction. As of the Closing Date, the TTK Companies and each Shareholder have performed in all material respects all of their respective obligations hereunder required to be performed by them at or prior to the Closing. The representations and warranties of the TTK Companies and Shareholders contained in this Agreement or any Ancillary Agreement required to be executed and delivered by the TTK Companies or Shareholders, are true in all respects at and as of the Closing Date, as if made at and as of such time.

ARTICLE VI: EMPLOYEE BENEFIT PLANS AND EMPLOYEE MATTERS

Section 6.1 Employee Benefit Plan and Employment Representations. The TTK Companies and Shareholders hereby jointly and severally represent, warrant and covenant to Buyer that neither the TTK Companies or the Business nor any ERISA Affiliate of the TTK Companies (i) maintains, contributes to or is required to contribute to any Employee Plan for the benefit of any Employee, or with respect to which the TTK Companies or any ERISA Affiliate of the TTK Companies has had, currently has or may have any liability or obligation, or (ii) has ever maintained, contributed to, or been required to contribute to any such Employee Plan.

Section 6.2 Benefit Plan and Employment Agreement Liabilities Not Assumed. Except for those liabilities expressly set forth on Schedule 3.1 and expressly assumed thereunder by Buyer, Seller or its ERISA Affiliates shall retain any and all liabilities relating to, arising from, or resulting out of any Employee Plan or any Employment Agreement and any and all such liabilities shall be Unassumed Liabilities.

Section 6.3 Employees and Offers of Employment. Except as set forth in this Section 6.3, Buyer shall have no obligation to offer employment to, or to employ, any employee of the TTK Companies. Any offers of employment by Buyer to the TTK Companies' employees shall be at such salary or wage and benefit levels and on such other terms and conditions as Buyer shall in its sole discretion deem appropriate. Buyer has made offers of employment effective and contingent upon the Closing to the employees of the TTK Companies listed on Schedule 6.3 hereto, and the TTK Companies shall use their best efforts to assist Buyer in securing an employment relationship with each such individual.

Section 6.3 Certain Employee-Related Definitions. As used in this Article VI or otherwise in this Agreement, the following terms have the following meanings: (a) "ERISA Affiliate" shall mean any other Person under common control with the the TTK Companies within the meaning of Code Section 414(b), (c), (m) or (o) and the regulations issued thereunder; (b) "Employee Plan" shall mean any plan, program, policy, practice, contract, agreement or other arrangement providing for compensation, retirement, severance, separation or termination pay, deferred compensation, performance awards, stock or stock-related awards, fringe benefits, or other employee benefits or remuneration of any kind, whether

written or unwritten or otherwise, funded or unfunded, including without limitation, each "employee benefit plan," within the meaning of Section 3(3) of ERISA; (c) "Employee" shall mean any current or former or retired employee or consultant of the TTK Companies or any Affiliate of the TTK Companies; (d) "Employment Agreement" shall mean each management, employment, severance, consulting, relocation, repatriation, expatriation, visas, work permit or other agreement, contract or understanding between the TTK Companies or any Affiliate of the TTK Companies, on the one hand, and any Employee, on the other hand; and (e) "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

ARTICLE VII: TAX MATTERS

Section 7.1 Tax Matters. The TTK Companies and each Shareholder hereby jointly and severally represent, warrant and covenant to Buyer that except as otherwise disclosed in Schedule 7.1:

(a) There is no basis for any authority or Person to assess any additional Taxes upon the TTK Companies or the Business for any period for which Tax Returns have been filed. There is no dispute or claim concerning any Tax liability of the TTK Companies or the Business either (i) claimed or raised by any authority in writing or (ii) as to which the TTK Companies or any Affiliate, employee, consultant, contractor, representative or agent of the TTK Companies has knowledge based upon personal contact with any agent of such authority. the TTK Companies has not granted any waiver of any statute of limitations with respect to any Tax.

(b) The TTK Companies have and will timely pay all Taxes and all interest and penalties due thereon and payable by it which will have been required to be paid on or prior to the Closing Date, the non-payment of which would result in a Lien on any Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable or responsible therefor.

(c) The TTK Companies have or will timely pay all Tax liabilities, assessments, interest and penalties which shall become due or shall have accrued (i) on account of the operations of the TTK Companies or the Business or the ownership of the Assets on or prior to the Closing or (ii) on account of the sale to Buyer of the Assets by the TTK Companies.

Section 7.2 Certain Tax-Related Definitions. As used in this Article VII or otherwise in this Agreement: (a) the term "Tax" means any net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, franchise, capital, paid-up capital, profits, green-mail, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge or any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount imposed by any govern-mental authority (domestic or foreign) responsible for the imposition of any such tax; and (b) the term "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

ARTICLE VIII: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, that:

Section 8.1 Organization of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has all requisite power and authority to own and operate its business.

Section 8.2 Authorization of Buyer. Buyer has full power and authority to enter into this Agreement and each of the Ancillary Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby, including, without limitation, the execution and delivery of this Agreement and each of the Ancillary Agreements.

Section 8.3 Brokers' and Finders' Fees. Buyer is not obligated to pay any fees or expenses of any broker or finder in connection with the origin, negotiation, or execution of this Agreement or in connection with any transactions contemplated hereby.

ARTICLE IX: COVENANTS OF SELLER

Section 9.1 Conduct of the Business.

(a) During the period from the date hereof through the Closing Date, Shareholders and the TTK Companies (directly and through its directors, officers, employees, consultants, contractors, representatives, agents and advisors) shall carry on and use their best efforts to preserve the Assets, the Business and relationships with customers, suppliers, employees, consultants, contractors, representatives, agents, licensees and others with respect to the Business in substantially the same manner as Seller did prior to the date hereof. If there occurs any deterioration in any relationship between the TTK Companies, on the one hand, and any customer, supplier, employee, consultant, contractor, representative, agent or advisor of the TTK Companies, on the other hand, then Seller will promptly bring such information to the attention of Buyer in writing and Seller will use its best efforts to repair and restore such relationship.

(b) During the period from the date hereof through the Closing Date, neither the TTK Companies or any Shareholder nor any Affiliate, director, officer, employee, consultant, contractor, representative, agent or advisor of the TTK Companies shall, without the prior written consent of Buyer: (i) transfer or license to any Person any rights to any of the Proprietary Rights; (ii) change, in any way, the TTK Companies' method of operating the Business or the TTK Companies' accounting practices or record-keeping practices relating thereto; (iii) sell, lease, license or otherwise dispose of any of the Assets, except in the ordinary course of business consistent with prior practice; (iv) modify, waive, change, amend, release, rescind, make an accord and satisfaction of, or terminate any Contract or any term, condition, or provision thereof, other than by satisfying any such Contract by performance in accordance with the terms thereof in the ordinary course of business consistent with prior practice; (v) allow any of the Assets to become subject to any Lien; (vi) commit any act or omission that might materially impair or jeopardize Buyer's use or ownership of the Assets after the Closing Date; or (vii) take, or agree in writing or otherwise to take, any of the actions described in subsections (i) through (vi) above.

(c) Neither the TTK Companies or any Shareholder nor any Affiliate, director, officer, employee, consultant, contractor, representative, agent or advisor of the TTK Companies will (i) take or agree or commit to take any action that would make any representation and warranty of the TTK Companies or Shareholder hereunder inaccurate in any material respect at, or as of any time prior to, the Closing Date, or (ii) omit or agree to omit to take any action necessary to prevent any such representation or warranty from being inaccurate in any material respect at any such time.

Section 9.2 Access to Information. From the date hereof until the Closing Date, Seller will: (a) give Buyer, its counsel, financial advisors and other authorized representatives full access to the offices, properties, books and records of Seller; (b) furnish to Buyer, its counsel, financial advisors and other authorized representatives such financial and operating data and other information relating Seller or the Assets as such Persons may reasonably request; and (c) instruct the Affiliates, directors, officers,

employees, consultants, contractors, representatives, agents and advisors (including legal counsel and financial or accounting advisors) of Seller to fully cooperate with Buyer in its investigation of Seller, the Business and the Assets.

Section 9.3 Notices of Certain Events. Seller shall promptly notify (to the extent Shareholders, Seller or any of Seller's Affiliates, directors, officers, employees, consultants, contractors, representatives, agents or advisors has received notice or otherwise has knowledge thereof) Buyer in writing of: (a) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement; (b) any notice or other communication from any governmental or regulatory agency or authority in connection with the transactions contemplated by this Agreement; and (c) any actions, suits, claims, investigations or proceedings commenced or threatened against, relating to or involving or otherwise affecting Seller, the Business or the Assets that relate to the consummation of the transactions contemplated by this Agreement or that, if pending on the date of this Agreement, would have been required to have been disclosed.

Section 9.4 No Solicitations. Until such date, if any, as this Agreement is terminated pursuant to Article XIII (the "Termination Date"), neither Seller or any Shareholder shall (directly or through any Affiliate, director, officer, shareholder, employee, consultant, contractor, representative, agent or advisor or any Person retained by any of the foregoing) solicit or encourage (including by way of furnishing information), or take any other action to facilitate, any inquiries or the making of any proposal which constitutes, or may reasonably be expected to lead to, any proposal to (a) buy, or otherwise dispose of, any portion of the Assets or (b) regarding any acquisition of Seller, including without limitation any acquisition of any material portion of the assets of Seller (each, a "Third Party Acquisition"). Seller and Shareholders agree that any such actions (other than negotiations with Buyer) in progress as of the date of this Agreement will be suspended through the Termination Date and that, in no event, will Seller or Shareholders accept, agree to enter or otherwise enter into any agreement concerning any such Third Party Acquisition transaction from the date hereof through the Termination Date. Seller or Shareholders will notify Buyer in writing immediately after receipt by Seller or Shareholder (or any of their respective Affiliates, directors, officers, employees, consultants, contractors, representatives, agents or advisors) of any unsolicited offers or inquiries regarding a Third Party Acquisition. Such notice to Buyer will indicate in reasonable detail the identity of the Person seeking a Third Party Acquisition and the terms and conditions thereof.

Section 9.5 Lien Release. Prior to the Closing Date, Seller shall obtain a release of any and all Liens on each of the Assets, other than Permitted Encumbrances.

Section 9.6 Affiliate Relationships. Seller shall have cancelled, or modified on terms acceptable to Buyer in its sole discretion, each Contract to which Seller, on the one hand, and any shareholder of Seller, any such shareholder family member, any Seller employee, any Affiliate of Seller or Shareholders, or any Affiliate of any of the foregoing, on the other hand, are among the parties thereto, except for the loan between Seller and the Shareholders, in the approximate sum of \$3,712,478 plus interest shall survive the Closing as modified between Seller and Shareholders which loan shall be the exclusive obligation of Seller.

Section 9.7 Assignment of Leases. On or before the Closing Date and contingent upon consummation of the Closing, Seller shall obtain the consent of the lessors of the Facilities to assign the leases for such Facilities to Buyer.

Section 9.8 Final Disclosure Schedule. No later than five (5) business days prior to the Closing Date, the draft Disclosure Schedule attached hereto upon execution of this Agreement shall, subject to acceptance by Buyer in whole or in part, be amended and replaced in its entirety with the final

Disclosure Schedule. Such final Disclosure Schedule, as accepted by Buyer, shall supersede and replace the draft Disclosure Schedule in its entirety.

ARTICLE X: COVENANTS OF THE PARTIES

The parties hereto each agree that:

Section 10.1 Best Efforts; Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each party will use its best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable to consummate the transactions contemplated by this Agreement or any Ancillary Agreement, including without limitation: (i) the subsequent transfer or assignment of any of the Assets (including without limitation any Contracts or Proprietary Rights) that were not transferred or assigned at the Closing; and (ii) obtaining any third-party consents to the transactions contemplated by this Agreement. Each party agrees to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) Seller hereby constitutes and appoints, effective as of the Closing Date, Buyer and its successors and assigns as the true and lawful attorney of Seller with full power of substitution in the name of Buyer or in the name of Seller, but for the benefit of Buyer (i) to collect for the account of Buyer any Assets and (ii) to institute and prosecute all proceedings which Buyer may in its sole discretion deem proper in order to assert or enforce any right, title or interest in, to or under the Assets, and to defend or compromise any and all actions, suits or proceedings in respect of the Assets. Buyer shall be entitled to retain for its own account any amounts collected pursuant to the foregoing powers, including any amounts payable as interest in respect thereof.

Section 10.2 Confidentiality. Prior to and through the Closing Date, each party hereto shall treat as confidential all information it receives regarding (a) the existence and terms of this Agreement, (c) the transactions contemplated hereby and (b) the other parties, and no party will, without the prior written consent of the other parties hereto, disclose any such information to any Person other than to the members, employees, legal counsel, financial advisors or accountants of such party who have a reason to review such information in connection with the transactions contemplated hereby (each, an "Advisor"). Notwithstanding the foregoing, a party's obligation to maintain confidentiality does not apply to information which (i) is or becomes generally available to the public other than as a result of a disclosure by such party or any Advisor thereof, (ii) was available to such party or any Advisor thereof on a non-confidential basis prior to its disclosure by such party or any Advisor thereof, (iii) becomes available to such party or any Advisor thereof from a Person other than such party or any Advisor thereof who is not otherwise known by such party or any Advisor thereof to be bound by a confidentiality agreement, (iv) is required to be disclosed pursuant to any law, rule or regulation or pursuant to any order or decree of any appropriate court or governmental agency, or (v) is independently developed by such party or any Advisor thereof without reliance on the disclosing party's confidential information. Notwithstanding anything to the contrary in this provision or otherwise in this Agreement: Any party may disclose the terms of this Agreement and information regarding the transactions contemplated by this Agreement to the extent such information is reasonably required to be disclosed to third parties in furtherance of the transactions contemplated by this Agreement; and Buyer may disclose the terms of this Agreement and information regarding the transactions contemplated by this Agreement to the extent such information is reasonably required to be disclosed to third parties in furtherance of Buyer's capital raising and financing activities including the filing of a Form S1 Registration Statement.

Section 10.3 Expenses. Except as otherwise expressly set forth in this Agreement, all costs and expenses incurred by any party hereto in connection with this Agreement or the transactions contemplated hereby shall be paid by the party incurring such expenses.

ARTICLE XI: CONDITIONS TO CLOSING

Section 11.1 Conditions to the Obligations of Each Party. The obligations of Buyer and Seller to consummate the Closing are subject to the satisfaction of the following conditions: (a) no provision of any applicable law or regulation and no judgment, injunction, order or decree shall (i) prohibit the consummation of the Closing or (ii) restrain, prohibit or otherwise interfere with the effective operation or enjoyment by Buyer of all or any material portion of the Assets; and (b) all actions by or in respect of or filings with any governmental body, agency, official or authority required to permit the consummation of the Closing shall have been taken or made.

Section 11.2 Conditions to Obligation of Buyer. The obligation of Buyer to consummate the Closing is subject to the satisfaction of each of the following further conditions, unless such conditions have been expressly waived by Buyer in writing:

(a) The results of the due diligence investigation into the state of the TTK Companies, their financial condition, the Assets and the future prospects of the Business are, in the sole discretion of Buyer, satisfactory in all respects.

(b) (i) Seller and each Shareholder shall have performed in all material respects all of their respective obligations hereunder required to be performed by them at or prior to the Closing, (ii) the representations and warranties of the TTK Companies and Shareholders contained in this Agreement or any Ancillary Agreement required to be executed and delivered by the TTK Companies or Shareholders, shall be true in all respects at and as of the Closing Date, as if made at and as of such time.

(c) No court, arbitrator or governmental body, agency or official shall have issued any order, and there shall not be any statute, rule or regulation, restraining or prohibiting the consummation of the Closing or the ownership or effective operation by Buyer of the Assets after the Closing Date, and no proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any Person before any court, arbitrator or governmental body, agency or official and be pending.

(d) Seller shall have executed and delivered to Buyer each of the Ancillary Agreements required of it under this Agreement, including, without limitation, the Bill of Sale, Escrow Agreement and the Assignment and Assumption Agreement.

(e) Seller and Buyer shall have obtained all necessary consents, novations, authorizations or approvals from all necessary governmental agencies or third parties, in each case in form and substance reasonably satisfactory to Buyer, and no such consent, novation authorization or approval shall have been revoked, withheld or violated.

(f) Buyer shall have received proof of the release of all Liens, except Permitted Encumbrances, with respect to the Assets.

(g) Each Permit identified on Schedule 2.1(e) shall have been transferred to Seller.

(h) Five (5) or more business days prior to the Closing Date, Seller shall have delivered the final Disclosure Schedule, which Disclosure Schedule shall be (i) in form and substance

satisfactory to Buyer in its sole discretion and (ii) true, accurate and complete in all respects at and as of the Closing Date.

(i) Buyer shall have obtained proof, satisfactory to Buyer in its sole discretion, that the relationships of the Business with its vendors, customers, contractors and employees shall continue after the Closing without any loss or adverse change in any such relationship.

(j) Each key employee of Seller (as identified to Seller by Buyer) shall have agreed, on terms satisfactory to Buyer in its sole discretion, to employment with Buyer from and after the Closing Date. Without limiting in any way the foregoing, each said key employee shall have executed and delivered to Buyer his/her respective Employment Agreement and Non-Competition Agreement.

(k) Since June 30, 2005, there shall not have been any change in the business, operations or condition (financial or otherwise) of the TTK Companies, and no casualty shall have occurred to any of the Assets, which taken as a whole could have a Material Adverse Effect.

(l) Seller shall have executed the Supplemental Signature Page to the Fifth Amended and Restated Stock Restriction and Co-Sale Agreement attached hereto as Exhibit F.

Section 11.3 Conditions to Obligation of Seller. The obligation of Seller to consummate the Closing is subject to the satisfaction of the each of the following further conditions:

(a) No court, arbitrator or governmental body, agency or official shall have issued any order, and there shall not be any statute, rule or regulation, restraining or prohibiting the consummation of the Closing, and no proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any Person before any court, arbitrator or governmental body, agency or official and be pending.

(b) Seller shall have received all documents it may reasonably request relating to the existence of Buyer and the authority of Buyer for this Agreement, all in form and substance satisfactory to Seller.

(c) Buyer shall have executed and delivered the Ancillary Agreements required of it under this Agreement and Buyer shall have performed and complied in all material respects with all agreements and conditions required by the Agreement to be performed or complied with by the Buyer prior to or on the Closing Date..

(d) Buyer's representations and warranties contained in this Agreement or any schedule, certificate or other instrument delivered pursuant to the provisions hereof or in connection with the transactions contemplated hereby shall be true and correct in all material respects at and as of the Closing Date (except for such changes as permitted by this Agreement) and shall be deemed to be made again as of the Closing Date.

(e) All documents and instruments required hereunder to be deliver by the Boyer to the Seller at the Closing shall be delivered in form and substance reasonably satisfactory to Seller or its counsel.

(f) No litigation seeking to enjoin the Transaction contemplated by this Agreement or to obtain damages on account thereof shall be pending or threatened unless waived in writing by the Seller.

- (d) Seller shall have received the Purchase Price.

ARTICLE XII: INDEMNIFICATION

Section 12.1 Indemnification of Buyer. Effective on the Closing Date and thereafter, Seller and Shareholders jointly and severally shall indemnify and hold harmless Buyer and its members, managers, shareholders, directors, officers, employees and agents, from and against any and all damages, losses, penalties, deficiencies, obligations, claims, suits, proceedings, demands, assessments, judgments, expenses, costs, and liabilities, of any nature whatsoever, incurred by any of them, including without limitation reasonable attorneys' and accountants' fees (hereafter individually a "Loss" and collectively "Losses"), arising from or in connection with:

- (a) any breach by the TTK Companies or Shareholders of any representation or warranty contained in this Agreement (including without limitation the Disclosure Schedule) or any Ancillary Agreement or document or writing delivered by the TTK Companies or Shareholders in connection with this Agreement;
- (b) any breach of or any failure by the TTK Companies or Shareholders to perform or comply with any covenant, agreement or obligation contained in this Agreement (including without limitation the Disclosure Schedule) or any Ancillary Agreement or document or writing delivered by the TTK Companies or Shareholder in connection with this Agreement;
- (c) any claim made or litigation instituted by a third party relating to (i) Seller's or Fairway's ownership rights in and to the Assets or (ii) any act or omission of the TTK Companies prior to the Closing, including but not limited to any claim made or litigation instituted by James Keegan regardless of any disclosures regarding this matter in the Disclosure Schedules;
- (d) any liability or obligation of the TTK Companies or Shareholders which relates to the ownership or use of any of the Assets, the Unassumed Liabilities, or the conduct of the Business or TTK Company or Shareholders, for any period prior to or including the Closing Date, including but not limited to liabilities arising from or relating to any taxes imposed on the TTK Companies, the Business or any of the Assets for any period prior to or including the Closing Date;
- (e) any liability or obligation, or claim made or litigation instituted, relating to the Unassumed Liabilities (including without limitation any liability or obligation, or claim made or litigation instituted, arising from, relating to, or in connection with any product or service provided by the TTK Companies (or any of its Affiliates, directors, officers, employees, consultants, contractors, representatives, agents or advisors), in whole or in part, on or prior to the Closing Date) or relating to or brought by employees or consultants of the TTK Companies based on acts or events prior to the Closing Date;
- (f) any commission or compensation in the nature of any finder or brokerage fee for which Seller or any of its Affiliates, directors, officers, employees, representatives or agents is or is claimed to be responsible;
- (g) any lost profits to Buyer during the 12 month period following the Closing Date that results from cancellation or termination of any of Seller's or Fairway's agreements or contracts (including any contracts listed on Schedule 2.1(c) or Schedule 5 or the lease for Fairway's facilities) that at the time of the Closing had not been properly documented and executed or that required consent to assignment which consent was not obtained in writing;

(h) any debt incurred by Seller or Fairway prior to the Closing Date even if such debt is disclosed in the Disclosure Schedules or the Financial Statements or any depletion or reduction in the cash set forth in the June 30th Balance Sheets of Seller and Fairway (or their consolidated balance sheets) in excess of \$10,000 unless such depletion is to pay off expenses set forth in Schedules 5.6(a) and (b); or

(i) any and all actions, suits, proceedings, demands, assessments or judgments, costs and expenses reasonably arising out of any of the foregoing matters set forth in this Section 12.1.

Buyer's right to indemnification, reimbursement or other remedy arising from or in connection with Seller's or Shareholders' representations, warranties, covenants, agreements or obligations contained in this Agreement (including without limitation the Disclosure Schedule) or any Ancillary Agreement or document or writing delivered by Seller or Shareholder pursuant to this Agreement shall not be affected by (A) any investigation (including without limitation any environmental investigation or assessment) conducted by or on behalf of Buyer with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty, covenant, agreement or obligation, (B) any knowledge acquired (or capable of being acquired) by Buyer (or any of its Affiliates, members, managers, directors, officers, employees, representatives, agents or advisors) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty, covenant, agreement or obligation (unless such knowledge is acquired as a result of an exception expressly made in writing by Seller in the Disclosure Schedules), or (C) solely with respect to the representations and warranties made under Sections 5.1, 5.8, 5.11(c), 5.14, 5.19, 5.23 and 7.1, any disclosure in the Disclosure Schedules. The waiver of any condition based upon the accuracy of any such representation or warranty, or on the performance of or compliance with any covenant, agreement or obligation, will not affect Buyer's right to indemnification, reimbursement or other remedy arising from or in connection with such representations, warranties, covenants, agreements or obligations.

In the event Buyer exercises its right to indemnification pursuant to this Section 12.1, Buyer shall first seek indemnification from the Escrow Deposit pursuant to the terms of the Escrow Agreement. Only in the event the Escrow Deposit is not sufficient to satisfy all of Buyer's indemnification right shall Buyer seek indemnification from the Seller and Shareholders.

Seller's and Shareholders' maximum aggregate indemnification obligation (including the Escrow Deposit) shall not exceed Three Million Dollars (\$3,000,000). Buyer's maximum aggregate indemnification obligation shall not exceed Three Million Dollars (\$3,000,000). The indemnifying party may satisfy such maximum by first paying up to \$1,500,000 in cash (including the Escrow Deposit) and then paying up to \$1,500,000 in cash or up to 200,000 shares of Buyer's common stock valued at \$7.50 per share.

Except with respect to Rosalind Davidowitz, any limitations on the indemnification obligations of Seller and the Shareholders set forth in the Agreement shall not apply to any Loss arising directly or indirectly from any circumstance involving intentional misrepresentation or fraud on the part of Seller or the Shareholders.

Section 12.3 Indemnification of Seller. Effective on the Closing Date and thereafter, Buyer shall indemnify and hold harmless Seller and its directors, officers, shareholders (including the Shareholders), employees and agents, from and against any and all Losses arising from or in connection with:

(a) any breach by Buyer of any representation or warranty contained in the this Agreement;

(b) any breach of or any failure by Buyer to perform or comply with any covenant, agreement or obligation contained in this Agreement;

(c) any claim made or litigation instituted by a third party relating to Buyer's ownership rights in and to the Assets (unless such claim or litigation relates to the sale or transfer of the Assets from Seller to Buyer);

(d) any liability or obligation of Buyer which relates to the ownership or use of any of the Assets or the conduct of the Business subsequent to the Closing Date including liabilities arising out of the Assumed Liabilities, including but not limited to liabilities arising from or relating to any taxes imposed on Buyer or any of the Assets for any period subsequent to the Closing Date;

(e) any liability or obligation, or claim made or litigation instituted, relating to and caused by Buyers failure to satisfy and pay the Assumed Liabilities within the time limit set forth in this Agreement; or

(f) any and all actions, suits, proceedings, demands, assessments or judgments, costs and expenses reasonably arising out of any of the foregoing matters set forth in this Section 12.2.

Section 12.4 Indemnification Procedure.

(a) Claims for Indemnification. Except for Third Party Claims described in Section 12.3(b) below, if an event giving rise to indemnification hereunder shall have occurred or is threatened, then the party seeking indemnification ("Indemnified Party" promptly shall deliver to the party from whom indemnity is sought ("Indemnifying Party") written notice thereof, stating that such event has occurred or is threatened, describing such event in reasonable detail and specifying or reasonably estimating the amount of the prospective Loss and the method of computation thereof (a "Claim"), all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or has arisen (the "Notice of Claim"). For purposes hereof, any Claim for indemnification shall be deemed to have been made as of the date on which the Notice of Claim is delivered in accordance with the terms of this Section 12.4.

(i) In the event the Indemnifying Party shall in good faith dispute the validity of all or any amount of a Claim for indemnification as set forth in the Notice of Claim, then such Indemnifying Party shall, within ten (10) days after delivery of the Notice of Claim, execute and deliver to the Indemnified Party a notice setting forth with reasonable particularity the grounds, amount of, and basis upon which the Claim is disputed (the "Dispute Statement").

(ii) In the event the Indemnifying Party shall within ten (10) days after receipt of the Notice of Claim deliver to the Indemnified Party a Dispute Statement, then the portion of the claim described in the Notice of Claim disputed by such Indemnifying Party (the "Disputed Liability") shall not be due and payable from such Indemnifying Party except in accordance with (A) a final decision of an arbitrator pursuant to an arbitration instituted under Section 14.1 of this Agreement or (B) a written agreement between the Indemnified Party and such Indemnifying Party stipulating the amount of the Admitted Liability.

(iii) In the event any Indemnifying Party shall not within ten (10) days after receipt of the Notice of Claim deliver to such Indemnifying Party a Dispute Statement identifying a Disputed Liability, then the amount of the claim described in the Notice of Claim, or if a Dispute Statement is delivered, the portion thereof not disputed as a Disputed Liability, shall be deemed to be

admitted (the "Admitted Liability") of such Indemnifying Party and shall, upon the incurring of an actual Loss arising therefrom, immediately be due and payable.

(b) Settlement of Third Party Claims. If the Indemnified Party shall receive notice of any Claim by a third party which is or may be subject to indemnification (a "Third Party Claim"), the Indemnified Party shall give the Indemnifying Party prompt written notice of such Third Party Claim and shall permit the Indemnifying Party, at its option, to participate in the defense of such Third Party Claim by counsel of its own choice and at its expense. If, however, the Indemnifying Party acknowledges in writing to the Indemnified Party the Indemnifying Party's obligation to indemnify the Indemnified Party hereunder against all Losses that may result from such Third Party Claim, then the Indemnifying Party shall be entitled, at its option, to assume and control the defense of such Third Party Claim at its expense and through counsel of its choice after delivery of written notification.

(i) In the event the Indemnifying Party exercises its right to undertake the defense of any such Third Party Claim, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent records, materials and information in its possession or under its control relating thereto as is reasonably required by the Indemnifying Party. However, no such Third Party Claim may be settled by the Indemnifying Party without the written consent of the Indemnified Party, unless the settlement involves only the payment of money by the Indemnifying Party and does not include an admission of liability on the part of the Indemnified Party. Similarly, no Third Party Claim shall be settled by the Indemnified Party without the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(ii) In the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party in such defense and make available to it all such witnesses, records, materials and information in its possession or under its control relating thereto as is reasonably required by the Indemnified Party.

12.5 Right of Setoff. Upon notice to Seller specifying in reasonable detail the basis therefor, Buyer may set off any amount to which it may be entitled under this Article XII against amounts otherwise payable under the Earnout Payment. Neither the exercise of nor the failure to exercise such right of setoff will constitute an election of remedies or limit Buyer in any manner in the enforcement of any other remedies that may be available to it.

12.6 Basket. No action or claim for indemnification shall be made or brought against Seller or the Shareholders unless Buyer's Loss for an individual claim exceeds \$10,000 or the aggregate Loss of Buyer exceeds \$25,000 in which event Buyer may seek indemnification for its entire Loss. No action or claim for indemnification shall be made or brought against Buyer unless the aggregate Loss of Seller exceeds \$25,000 in which event Seller may seek indemnification for its entire Loss.

ARTICLE XIII: TERMINATION

Section 13.1 Grounds for Termination. This Agreement may be terminated at any time prior to the Closing: (a) by mutual written agreement of Seller and Buyer; (b) by either Seller or Buyer if, without fault of the terminating party, the Closing shall not have been consummated on or before the fifth day following the date of this Agreement; (c) by either Seller or Buyer if there shall be any law or regulation that makes the consummation of the transaction contemplated hereby illegal or otherwise prohibited or if consummation of the transactions contemplated hereby would violate any nonappealable

final order, decree or judgment of any court or governmental body having competent jurisdiction; (d) by Buyer if Seller has breached or otherwise violated the provisions of Section 9.4; or (e) by either Buyer or Seller in the event of a material breach by the other party of any covenant, agreement, representation or warranty. The party desiring to terminate this Agreement pursuant to clauses (b), (c) or (e) shall give written notice of such termination to the other party.

Section 13.2 Effect of Termination. In the event of a termination of this Agreement as provided in Section 13.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Buyer or Seller or their respective officers, directors, shareholders, members, managers or Affiliates, except to the extent that such termination results from the material breach by a party hereto of any of its representations, warranties, covenants or agreements set forth in this Agreement; provided that Section 9.4 (No Solicitations), Section 10.3 (Expenses), Article XII (Indemnification), Section 13.2 (Effect of Termination), and Article XIV (Miscellaneous) of this Agreement shall remain in full force and effect and survive any termination of this Agreement.

ARTICLE XIV: MISCELLANEOUS

Section 14.1 Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the making, performance, or interpretation thereof, including without limitation any controversy or claim arising out of or relating to Article XII, shall be settled by binding arbitration in the County of San Diego, State of California, under the then existing Commercial Arbitration Rules of the American Arbitration Association (except with respect to selection of the arbitrator(s), which shall be made in accordance with the provisions of this Section) if the claim is made by the Buyer and if by the Seller than New Jersey shall be substituted therefore.. The parties shall choose an arbitrator mutually acceptable to them; in the event the parties are unable to mutually agree upon an arbitrator within twenty (20) days after a party's decision to arbitrate (and notice provided to the other parties of such decision), then the American Arbitration Association shall be asked to appoint one arbitrator to rule on the matter, such appointment to be in accordance with Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitrator selected shall be experienced in negotiating, making and consummating acquisition agreements. Each party to the dispute shall contribute equally to the payment of the arbitrator's fees, including administrative fees of the American Arbitration Association. However, upon the arbitrator's decision, the party against whom such decision is made shall pay the other side's expenses, including without limitation attorneys' fees and the arbitrator's fees. Judgment on any award rendered by the arbitrator may be entered by any court of competent jurisdiction.

Section 14.2 Survival. The covenants, agreements, representations and warranties of the parties hereto contained in this Agreement or in any certificate or other writing delivered pursuant hereto or in connection herewith shall survive the Closing for a period of 24 months.

Section 14.3 Notices. Any notices required or permitted to be given hereunder shall be in writing and shall be deemed delivered (a) two days after being deposited in the mails, (b) one day after being deposited with an express overnight courier service or (c) the same day notice is sent by electronic facsimile transmission if made by 5:00 p.m. local time or one day after being sent by facsimile transmission if made after 5:00 p.m., addressed:

If to Buyer, to: The Active Network, Inc.
10182 Telesis Court, Suite 300
San Diego, CA 92130
Facsimile: 858.551.7619
Attention: Kory Vossoughi, General Counsel

If to Seller, to: Tee Time King, inc.
355 Madison Ave.
Morristown, NJ 07960

With a copies to: Sheldon Schachter
1 Claridge Drive Suite 228
Verona, NJ 07044

and

Martin Bell
44 Wall Street, 2nd Floor
New York, NY 10005

If to Shareholders, to: the address and contact information provided on the signature page hereto.

Section 14.4 Amendments; No Waivers; Remedies. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by Buyer and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement shall be cumulative, and not exclusive, of any rights or remedies any party hereto may have at law, in equity, or otherwise.

Section 14.5 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that Seller shall not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Buyer.

Section 14.6 Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of California as applied to agreements among California residents entered into and to be performed entirely within California.

Section 14.7 Counterparts; Effectiveness. This Agreement may be executed in one or more counterparts, including by telefax signature, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 14.8 Entire Agreement. This Agreement together with the Disclosure Schedule and Exhibits constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein has been made or relied upon by either party hereto. Neither this Agreement nor any provision hereof is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 14.9 Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be limited or eliminated

to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

Section 14.10 Captions. The captions and headings used herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

Section 14.11 Legal Representation of the Parties. Each of the parties to this Agreement has been represented by such party's own legal counsel in connection with this Agreement and the transactions contemplated hereby. This Agreement was negotiated by the parties with the benefit of the representation of such legal counsel, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation of this Agreement.

Section 14.12 Buyer will maintain the Crystal Springs Resorts as preferred customers in the Northern New Jersey/New York Metropolitan area and as such its golf courses will be treated as feature courses (including but not limited to, being given first priority for all golf outings) but only for so long as Buyer is granted by Crystal Springs Resorts use of such golf courses as beta sites for any software upgrades and such golf courses fully participate in Buyer's online tee time programs.

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

SELLER:

TEE TIME KING, INC.

By: *[Signature]*
Print: CHRISTOPHER MULVHILL
Title: _____

SHAREHOLDERS:

Sign: *[Signature]*
Print: Gene MULVHILL
Address: _____

Sign: *[Signature]*
Print: ROSLINDO DAVIDOWITZ
Address: 7 Sutton Place South
Lawrence, NY 11559

BUYER:

THE ACTIVE NETWORK, INC.

By: *[Signature]*
Name: Matt Landa
Title: President

LIST OF EXHIBITS

Exhibit A	Assignment and Assumption Agreement
Exhibit B	Bill of Sale
Exhibit C	Employment Agreement
Exhibit D	Non-Competition Agreement
Exhibit E	Escrow Agreement
Exhibit F	Supplemental Signature Page to Fifth Amended and Restricted Stock Restriction and Co-Sale Agreement

SCHEDULE 3.1

With respect to each of Seller and Fairway, Buyer shall assume the liabilities listed below. The categories of liabilities described below are in reference to Seller and Fairway's June 30, 2005 balance sheets (and consolidated balance sheet) as attached to this Agreement as part of the Disclosure Schedules (the "Balance Sheets").

Seller (Tee Time King, Inc.)

- Up to \$63,000 of Accounts Payable (exclusive of any payables to Crystal Springs Resorts).
- Up to \$75,000 of Accrued Expenses and Taxes Payable
- Up to \$31,800 of Gift Certificates Payable
- Up to \$9,000 of Accrued Product Warranty liability
- The amount of Deferred Revenues as reflected on the Balance Sheets.

Fairway Systems, Inc.

- Up to \$36,720 of Accounts Payable.
- Up to \$13,000 of accrued expenses and taxes payable
- The amount of Deferred Revenues as reflected on the Balance Sheets.

The parties expressly acknowledge that Buyer will not assume any payables to Crystal Resorts or any other affiliated company or any debt obligations of Seller or Fairway, including but not limited to the \$50,000 debt of Fairway as reflected on the Balance Sheets and that such debt shall be the sole and exclusive obligation of Seller.

Buyer shall also assume the liabilities of Seller as set forth in Schedules 5.6(a) and 5.6(b) but only in so far as such liabilities were incurred in the ordinary course of business.

SCHEDULE 4.5

EARNOUT PAYMENT

The total PBT for the Earnout Period shall be equal to the net profits (gross revenues minus all operational expenses) collected by Buyer over such period resulting directly from the operation of the Assets. The PBT shall exclude from its calculation any revenue or net profits (i) generated by Buyer that do not relate to the Business or the Assets, (ii) which Buyer could have generated without acquiring the Assets, or (iii) which but for the assets and resources of Buyer that were in existence prior to the Closing Date would not have been generated by the Assets. PBT shall include any expenses incurred by Buyer as a result of (i) operating the Assets, (ii) devoting any resources it owned prior to the Closing to the operation of the Assets, and (iii) all expenses ordinarily and customarily associated with the Assets prior to the Closing (including those categories of expenses that were incurred by the TTK Companies prior to the Closing such as salaries, lease and travel expenses). Any expenses incurred by Active in connection with the acquisition of the Assets as contemplated by this Agreement shall be excluded from the PBT calculation. Solely, with respect to transactions with Crystal Springs Resorts in New Jersey, the portion of sales generated or expenses incurred during the Earnout Period that exceed the sales generated or expenses incurred by Seller during the twelve (12) month period prior to the Closing Date will be excluded from the PBT determination. Sales generated or expenses incurred during the Earnout Period with respect to transactions with Crystal Springs Resorts other than in New Jersey will be treated in the normal fashion for determining PBT during said Earnout Period.

During the Earnout Period, solely for purposes of PBT calculation, Buyer shall maintain separate financial statements for the operation of the Assets, as though the Assets comprise a separate business unit of the Buyer. Any additional investments made by Buyer to such business unit that are above and beyond investments customarily made by the TTK Companies in the ordinary course of business prior to the Closing, shall not be used as part of the PBT calculation.

PBT shall be determined in accordance with generally accepted accounting principles ("GAAP") (including GAAP revenue recognition rules) as applied by Buyer's then current auditors. In the event the total PBT for the Earnout Period is greater than \$1,000,000 then for the purposes of the computation below, the PBT shall be deemed to equal \$1,000,000.

The number of shares of Common Stock comprising the Earnout Payment shall be equal to 400,000 multiplied by the quotient obtained by dividing X by 500,000 (and rounding the product to the nearest whole number) where X is equal to the total PBT for the Earnout Period (as determined above) minus 500,000. For example:

Total PBT of \$1,000,000 will result in an Earnout Payment of $((\$1,000,000 - \$500,000)/\$500,000)*400,000 = 400,000$ shares of Common Stock

Total PBT of \$750,000 will result in an Earnout Payment of $((\$750,000 - \$500,000)/\$500,000)*400,000 = 200,000$ shares of Common Stock