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ETAS v.1.5

PTO-1594 (Rev. 10/02)

OMB No. 0651-0027 (Exp. 6/30/2000)

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**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
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<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	RELEASE BY SECURED PARTY		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
LaSalle Bank National Association		01/30/2007	Association: ILLINOIS
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Dennis Bamber, Inc.		
<b>Doing Business As:</b>	DBA The Woodwind & The Brasswind		
<b>Street Address:</b>	19880 State Line Road		
<b>City:</b>	South Bend		
<b>State/Country:</b>	INDIANA		
<b>Postal Code:</b>	46637		
<b>Entity Type:</b>	CORPORATION: INDIANA		
<b>PROPERTY NUMBERS Total: 10</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	1318652		

<b>Registration Number:</b>	1867349	DRUMS IN THE WIND
<b>Registration Number:</b>	1692880	LAZER
<b>Registration Number:</b>	1446299	LYONS
<b>Registration Number:</b>	1276584	LYONS
<b>Registration Number:</b>	1318653	LYONS
<b>Registration Number:</b>	2324958	PLAYTEST
<b>Registration Number:</b>	1682861	RIA FINE SAXOPHONE & CLARINET MOUTHPIECES
<b>Registration Number:</b>	2324957	SHOPCHECK
<b>Registration Number:</b>	1927030	THE WOOD WIND & THE BRASSWIND

**CORRESPONDENCE DATA**

**Fax Number:** (312)828-9635  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
**Email:** mhays@agdglaw.com  
**Correspondent Name:** Mary Vidal Hays  
**Address Line 1:** 330 N. Wabash, Ste. 3000  
**Address Line 4:** Chicago, ILLINOIS 60611

<b>NAME OF SUBMITTER:</b>	Mary Vidal Hays
<b>Signature:</b>	/Mary Vidal Hays/
<b>Date:</b>	10/03/2007

**Total Attachments: 47**  
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**Fee calculated, according to the USPTO fee table**

Description	Fee code	Fee code amount	Quantity	Fee
Recording trademark assignment, agreement or other paper, first mark per document	8521	40.0	1	40.0
For second and subsequent marks in the same document	8522	25.0	9	225.0
<b>Total</b>				<b>\$265.00</b>

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10/03/2007 03:37 PM EDT

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

IN RE:	)	Chapter 11
	)	
DENNIS BAMBER, INC.	)	Case No. 06-31800
d/b/a THE WOODWIND & THE	)	
BRASSWIND,	)	Honorable Harry C. Dees, Jr.
	)	
Debtor.	)	

**ORDER CONFIRMING SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF THE  
DEBTOR FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS AND  
AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY  
CONTRACTS AND UNEXPIRED LEASES AND RELATED RELIEF**

At South Bend, in said District, this 30th day of January, 2007.

**THIS CAUSE** coming on to be heard upon the Motion of DENNIS BAMBER, INC. d/b/a THE WOODWIND & THE BRASSWIND, an Indiana corporation, debtor and debtor in possession herein (“Debtor”) for the entry of Orders: (1) Approving the Sale Process, Bidding Procedures, Bid Protection, Break-up Fee and Form Of Asset Purchase Agreement for the Sale of Substantially All of the Assets of the Estate; (2) Scheduling a Public Auction And Authorizing the Sale of the Assets of the Debtor Free and Clear of Liens, Claims, Encumbrances and Interests; And (3) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases (“Sale Motion”), pursuant to Sections 363 and 365 of the Bankruptcy Code<sup>1</sup>; due written notice hereof having been given to all parties listed on the Official Service List herein, and all creditors and other interested parties in this case, as evidenced by those certain Certificates of Service dated November 22, 2006, and January 4, 5, 12 and 23, 2007 filed herein

<sup>1</sup>Capitalized terms not defined herein shall have the same meaning provided in the Sale Motion.

by Debtor's counsel; the highest and best offer for the "Transferred Assets", as defined below, having been submitted by Musician's Friend, Inc., or its permitted assignee(s) (collectively, "MFI"), pursuant to that certain Asset Purchase Agreement dated as of January 30, 2007 ("MFI Sale Agreement"), a copy of which is attached as Exhibit A hereto and made a part hereof; no parties having been heard to object to the entry hereof; the Court having reviewed and considered (i) the Sale Motion, (ii) any objections thereto, (iii) the evidence proffered or adduced at the hearing held on January 30, 2007 before this Court on the Sale Motion ("Sale Hearing"), including the offer of proof of Debtor's counsel and supporting testimony of David G. Yoder, Vice President and Chief Financial Officer of the Debtor, Vito Mitria, representative of Fort Dearborn Advisors, Inc., the Debtor's investment bankers, and Lee Smith, a representative of MFI; and (iv) the statements of counsel and other interested parties present at the Sale Hearing, and being otherwise fully advised in the premises;

**NOW, THEREFORE, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT:**

1. On November 21, 2006, the Debtor commenced this case by the filing of a voluntary petition under Chapter 11 of the Bankruptcy Code ("Case"), and from and after said date has been operating its business and managing its property under the jurisdiction of this Court as debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.
2. Pursuant to the applicable provisions of the Bankruptcy Code, an Official Committee of Unsecured Creditors has been appointed in this Case ("Committee"). No trustee has been appointed in this Case.
3. The Debtor is one of the nation's largest retailers of musical instruments and

accessories having retail, mail order and web-based sales (the "**Business**"), and operating from its leased 120,000 square foot corporate headquarters, retail center and warehouse facilities at 4004 Technology Drive, South Bend, Indiana, and nearby 224,000 square foot distribution center (4955 Ameritech Drive, South Bend, IN) (collectively, the "**South Bend Facilities**").

4. For the reasons more fully described in the Sale Motion, beginning in late September 2006, the Debtor commenced its marketing efforts for the sale of substantially all of its business and assets to Guitar Center, Inc. ("GCI"). GCI, a publically held corporation (NASDAQ: GTRC) is the Debtor's primary competitor and the largest retailer of musical instruments and accessories in the world. Until early November 2006, the Debtor and GCI attempted to negotiate the terms of a mutually acceptable letter of intent. MFI is an affiliate of GCI.

5. However, prior to the execution of the GCI letter of intent, the Debtor was also engaged in efforts to obtain a competing proposal to acquire the stock, business or assets of the Debtor through a third party venture capital fund based in Philadelphia, Pennsylvania.

6. Throughout most of October 2006 and leading up to the commencement of this Case, the Debtor continued to negotiate the terms and conditions of an asset acquisition with GCI, while at the same time providing information and due diligence access to its books, records and facilities for the third party venture capital firm, and conducted extensive sale and investment negotiations with various representatives of that venture capital firm.

7. These asset sales negotiations with GCI culminated in the execution of a letter of intent between the parties dated November 3, 2006. Immediately thereafter, the Debtor and GCI/MFI began to negotiate the terms of a proposed asset purchase agreement based on the terms

and conditions of the executed letter of intent. Both parties expended substantial efforts and costs in formulating the terms of a proposed asset purchase agreement.

8. Given the status of these various negotiations, and as a result of the cash flow issues and operating pressures faced by the Debtor, the Debtor commenced this Case in order to protect the claims and interests of its customers, creditors, employees and other interested parties.

9. In analyzing the ramifications of filing this Case, and alternatives thereto, the Debtor has extensively considered the primary means of successfully concluding this Case in the best interests of all parties, such alternatives being a sale of the assets as a going concern, or the formulation and confirmation of an internal plan of reorganization.

10. As more fully described in the Sale Motion, since the filing of this Case, the Debtor has been unable to obtain sufficient sources of working capital from its primary secured lender, LaSalle Bank National Association ("LaSalle"), or otherwise to permit an internal plan of reorganization to be filed and confirmed. Without such capital, and given the competition in the Debtor's industry, the Debtor is faced with the likely erosion of its valuable customer base and the almost certain deterioration of the going concern value of the Business and the Transferred Assets. After evaluating various strategic alternatives, the Debtor has concluded that the best mechanism for maximizing the value of the Business and the Sale Property on a going concern basis is through the sale pursuant to Section 363 of the Bankruptcy Code, and that under the circumstances, any significant delay in embarking upon a sale process would likely have a material adverse effect on the value of the assets being offered for sale, given what will be the ongoing administrative costs of the Case, a continuing decline in sales volumes due to the inability to maintain optimal inventory levels, and the resulting limitations on the cash flow

needed to continue operations.

11. In order to expedite and maximize its assets sales efforts for the benefit of all of the creditors and other interested parties in this Case, immediately after the commencement of this Case, the Debtor conditionally accepted an Asset Purchase Agreement dated November 22, 2006 submitted by MFI for the purchase of substantially all of the Debtor's assets ("**MFI Initial Offer**"), and filed the Sale Motion, which was initially heard by this Court on November 28, 2006 and continued to December 8, 15 and 21, 2006.

12. On December 1, 2006, the Debtor received a competing proposal from Steinway Musical Instruments, Inc., a Delaware corporation ("**SMI**") in the form of an Asset Purchase Agreement largely based on the MFI Initial Offer, but which purported to offer a higher purchase price (the "**SMI Initial Offer**").

13. After extensive discussions and negotiations between the Debtor, the Committee, MFI and SMI, it was determined that based on certain modifications made by SMI, the SMI Initial Offer was, on its face, a higher and better offer than the MFI Initial Offer which had been proposed under the Sale Motion prior to the Debtor's receipt of the SMI Initial Offer.

14. As a result, and following further hearings before this Court, on December 21, 2006, this Court entered that certain Order: (A) Approving the Sale Process, Bidding Procedures, Bid Protection, Break-up Fee and Form of Asset Purchase Agreement for the Sale of Substantially All of the Assets of the Estate; (B) Scheduling a Public Auction and Authorizing the Sale of the Assets of the Debtor Free and Clear of Liens, Claims, Encumbrances and Interests; and (C) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases ("**Bidding Procedures Order**").



15. As set forth in the Bidding Procedures Order, the SMI Initial Offer, as amended in open court and thereafter by the filing of an Addendum thereto (collectively, the "SMI Offer") was afforded the "stalking horse" status thereunder for purposes of the Auction and all of the Debtor's further marketing efforts, which included the possible payment of a \$1,000,000 break-up fee (defined therein as the "Termination Fee"), in the event that a higher and better offer for the Transferred Assets was received from another bidder, ultimately approved by this Court and thereafter closed. Pursuant to the SMI Offer, SMI has made an earnest money deposit which, as of the date hereof, is being held in a LaSalle escrow in the amount of \$2,000,000 ("SMI Deposit").

16. In addition, and among other things, the Bidding Procedures Order established the dates for: (a) the "Initial Bid Deadline" for all competing bids of January 22, 2007 by 4:00 p.m. (EST); (b) the "Auction" for January 24, 2007 at 10:00 a.m. (EST); and (c) the Sale Hearing, which was initially set for January 25, 2007.

17. Among the assets of the estate which the Debtor seeks to sell in bulk pursuant to the Sale Motion, are the Debtor's right, title and interest in and to the Transferred Assets, all of which are used in the operation of the Debtor's Business, and are considered part of and necessary for the continued conduct of the Business. As more fully described in the Sale Agreement, the Transferred Assets include all of the Debtor's right, title and interest, in and to various executory contracts and unexpired leases relating to the Business, including, without limitation, the leases for the South Bend Facilities and that certain Master Lease Agreement between the Debtor and LaSalle National Leasing Corporation ("LaSalle Leasing") dated June 27, 2005 ("LaSalle Lease").

18. On December 21, 2006, this Court entered that certain Final Order (1) Authorizing Debtor to Incur Post-Petition Secured Indebtedness and Use Cash Collateral, (2) Granting Security Interests and Priority Claims, (3) Granting Adequate Protection, and (4) Modifying Automatic Stay (the “**Final Financing Order**”), which, among other things, authorized the Debtor to obtain loans and use the cash collateral of LaSalle in the ordinary course of business upon the terms and conditions set forth therein. For purposes hereof, all amounts owing to LaSalle and LaSalle Leasing pursuant to the Final Financing Order, LaSalle Lease or otherwise shall hereinafter be collectively referred to as the “**LaSalle Indebtedness**”.

19. Subject to the terms and conditions of the Final Financing Order, the Debtor will need to borrow some additional funds from LaSalle under the terms of the Final Financing Order between the date hereof and the “Closing”, as defined below.

20. As set forth in the Bidding Procedures Order, the Debtor sent the “Assumption Notice”, as defined therein, to all non-debtor parties to executory contracts and unexpired leases which the Debtor believed the purchaser of the Transferred Assets might want the Debtor to assume and assign to the purchaser upon Closing (collectively, the “**Executory Contracts**”). The Assumption Notice identified SMI as the prospective purchaser and the amount of arrearage owing under such Executory Contracts as of the filing of this Case.

21. In order to expedite and maximize its assets sales efforts for the benefit of all of the creditors and other interested parties in this Case, prior to the filing of this Case and continuing thereafter, the Debtor’s investment bankers, Fort Dearborn Advisors, LLC (“**Fort Dearborn**”) began a marketing effort with the assistance of the Debtor’s employees and other representatives.

22. Fort Dearborn's marketing approach has included the following:
- (a) Preparation of a confidential information memorandum, executive summary, management presentation and a supplemental due diligence package using information acquired from the Debtor's senior management, the Debtor's current and historical financial statements, investigation of the Debtor's operations, and review of the industry in which the Debtor operates;
  - (b) Identification of prospective purchaser list from numerous sources:
    - (i) Strategic purchasers identified through the industry trade association, trade publications such as "Music Trade", database and internet searches, and referrals from industry members. A list of fifty three (53) companies in the revenue size range of \$100 million to \$300 billion was compiled and each was contacted by telephone or email.
    - (ii) Financial Buyers were identified through database searches, review of industry trade associations, magazines and related articles, contacts of Fort Dearborn, LaSalle and other investment firms with a profile for investment that matched the Debtor's offering. All of these firms were contacted by telephone or email.
    - (iii) The members of the Committee were surveyed as to their interest in submitting an offer for the Transferred Assets in light of their extensive experience and involvement in the Debtor's industry.
  - (c) Utilizing the lists created, prospective purchasers were contacted by telephone or email. Executive summaries were sent by email or facsimile in the event prospective purchasers were unavailable by telephone. Telephone follow-up was also used to confirm interest or lack thereof from each recipient thereof.
  - (d) Of the strategic buyers contacted, ten (10) signed confidentiality agreements and were sent a copy of the confidential information memorandum. Additionally each was contacted by telephone again and additional questions were answered. Several were sent copies of court filings in this case (i.e. bid procedures, the SMI Offer) and the supplemental due diligence package.
  - (e) Of the private equity investment firms contacted, nineteen (19) signed confidentiality agreements and were sent a copy of the confidential information memorandum. Each of these firms was contacted by telephone and additional questions were answered. Several were sent copies of certain court filings in this case and the supplemental due diligence package.
  - (f) Fort Dearborn and the Debtor's officers conducted numerous facility tours and onsite meetings with interested parties. Where requested, the Debtor's

president and chief operating officer had further meetings with prospective purchasers to assist them in determining his future role with the purchaser, if any.

- (g) Fort Dearborn continued to follow up with all parties who signed confidentiality agreements in an effort to further their interest and participation in the sale process (all confidentiality agreements referenced herein are collectively referred to as the "Confidentiality Agreements", and the Debtor's right, title and interest therein shall be considered part of the Transferred Assets).
- (h) The Debtor and its representatives continued to contact other prospective purchasers as leads were obtained.
- (i) The Debtor and Fort Dearborn continued to respond to all due diligence inquiries and informational requests submitted by SMI throughout the marketing period.

23. In addition, the Debtor caused notices of the Auction and Sale Hearing to be placed in the National Edition of the *Wall Street Journal* on January 5, 10 and 13, 2007.

24. Notice of the Auction and the Sale Hearing, in the form of, *inter alia*: (a) a copy of the Bidding Procedures Order; (b) Notice of Sale and Approved Bidding Procedures; and/or (c) the Assumption Notice (collectively, the "Notice") were served by the Debtor's counsel upon the Office of the U.S. Trustee, all counsel of record, all known lien holders (collectively, the "Secured Claimants")<sup>2</sup>, all other creditors in this case, all known prospective purchasers, and all known non-debtor parties to executory contracts and unexpired leases on December 27, 2006, and January 5, 9, 11, 12 and 22, 2007. The publications, Notice and mailings by the Debtor's counsel, and Fort Dearborn's other marketing efforts for the Transferred Assets constitute a commercially reasonable sales effort and satisfies the requirements of Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.

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<sup>2</sup>Except as otherwise provided in the Final Financing Order, nothing herein contained shall constitute an admission by the Debtor of the validity, nature, priority or amount of any liens or claims referenced herein. The Debtor expressly reserves all of its available rights and remedies in connection therewith.

**SMI Termination**

25. From and after the entry of the Bidding Procedures Order, and despite all of the Debtor's and Fort Dearborn's efforts to assist SMI in its preparation for the Auction and Sale Hearing, at approximately 8:00 p.m. (EST) on January 15, 2007, SMI delivered a letter from its counsel to the Debtor's counsel notifying the Debtor that SMI was terminating the SMI Offer on the basis of an alleged "Material Adverse Effect" (as defined in the SMI Offer), which SMI unilaterally concluded could not be cured ("SMI Termination"). At no time prior to the receipt of the SMI Termination had SMI ever discussed a possible termination of the SMI Offer with the Debtor or Fort Dearborn, or their representatives, or whether any such termination would be valid under the terms of the SMI Offer or even if appropriate could be cured by the Debtor. On January 16, 2007, SMI issued a press release claiming that it had "concluded that there will be a failure of certain conditions necessary to close the transaction. Therefore, Steinway [SMI] is exercising its right to terminate the agreement. The timing and effect of this termination is subject to approval by the court."

26. The Debtor and the Committee contend that the Debtor was not in material breach of any provision of the SMI Offer, and that as such, the SMI Termination is wrongful and serves as a material breach of the SMI Offer by SMI. Accordingly, the Debtor and the Committee believe that SMI has forfeited the SMI Deposit, may be subject to further claims for damages sustained by the Debtor's estate, and is no longer entitled to receive the Termination Fee regardless of the outcome of the Sale Hearing.

27. As a result of the SMI Termination, this Court entered an Order on January 19, 2007 continuing the Sale Hearing to the date hereof.

**Cancellation of Auction and Receipt of MFI Sale Agreement**

28. Subsequent to the SMI Termination and the expiration of the Initial Bid Deadline, MFI submitted a written offer to purchase the Transferred Assets to the Debtor on January 23, 2007, which the Debtor and the Committee immediately began to analyze ("MFI Offer").

29. As of the Initial Bid Deadline, and despite the marketing efforts of the Debtor and Fort Dearborn, no parties had submitted any Qualifying Bid or any other offers to purchase the Transferred Assets.

30. Given the SMI Termination, the lack of any Qualifying Bid by the Initial Bid Deadline, and the terms of the Bidding Procedures Order, on January 24, 2007 at the time scheduled for the Auction, the Debtor announced on the record to all parties attending same (representatives of the Committee, MFI, SMI, and the U. S. Trustee, among others) that it: (a) would be unable conduct the Auction; (b) had received the MFI Offer subsequent to the expiration of the Initial Bid Deadline, which it and the Committee were continuing to review; and (c) intended to offer the Transferred Assets for sale to the party submitting the highest and best bid on or before the Sale Hearing. Other than MFI, no parties attending the Auction submitted any offer to purchase the Transferred Assets.

31. Immediately following the Auction, and continuing through January 26, 2007, the Debtor, Committee and MFI engaged in arms' length and arduous negotiations concerning the MFI Offer, all of which culminated in the MFI Sale Agreement, attached as Exhibit A hereto, which proposes to purchase the Transferred Assets for the aggregate sum of approximately \$29,900,000, including the assumption of certain specified liabilities and subject to final adjustments at Closing (collectively, the "Purchase Price").

32. As of the date hereof, no other party has submitted any offer to purchase the Transferred Assets. As such, and in light of the above, the MFI Sale Agreement represents the highest and best offer to purchase the Transferred Assets and is a fair and reasonable offer. The MFI Sale Agreement is supported by the Debtor, LaSalle and the Committee. In light of the SMI Termination, the required overbid protection set forth in the Bidding Procedures Order is no longer applicable.

33. No parties were heard to object at the Sale Hearing to the sale of the Transferred Assets pursuant to the Sale Motion or the Debtor's acceptance of the MFI Sale Agreement, and assumption and assignment of the "Assumed Executory Contracts", as defined below.

34. The MFI Sale Agreement provides that the Transferred Assets are being purchased "as is/where is" with no express or implied representations, statements, conditions or warranties of any kind or nature whatsoever excluding only title thereto free and clear of all liens and security interests except those set forth in the MFI Sale Agreement, and those other customary representations and warranties set forth in the MFI Sale Agreement.

35. There are no financing, due diligence or other contingencies to the closing of the MFI Sale Agreement except as are expressly set forth therein.

36. MFI has completed and/or waived all of its due diligence efforts regarding the Debtor's Business and the Transferred Assets as of the entry hereof.

37. MFI has required the Debtor to assume and assign to MFI at Closing those certain executory contracts and unexpired leases between the Debtor and various other parties, all as more fully set forth on the list attached hereto as Exhibit B and made a part hereof (collectively, the "Assumed Executory Contracts"). The Debtor has further agreed to cause all cure costs in

the amounts reflected therein (collectively, the "Cure Costs") to be paid at Closing or as soon thereafter as is practicable as set forth in the MFI Sale Agreement.

38. Based on public filings with the U. S. Securities and Exchange Commission, MFI has substantial financial ability to perform under all of the Assumed Executory Contracts and consummate the transactions contemplated in the MFI Sale Agreement. In light thereof, the Debtor and the Committee have concluded that MFI has the financial ability to consummate the transactions contemplated in the MFI Sale Agreement, and provide such adequate assurance of future performance under each of the Assumed Executory Contracts as is necessary for the Debtor to assume same at the Closing in accordance with Section 356(b)(1) of the Bankruptcy Code.

39. No sales or brokerage commissions have been incurred or will become due upon the Closing of the MFI Sale Agreement, except as has been previously authorized by order of this Court relating to the Debtor's retention agreement with Fort Dearborn.

40. Under the terms of the MFI Sale Agreement and as affirmed in open court, MFI has agreed to the terms and conditions of the sale as set forth in the MFI Sale Agreement and has agreed to make the necessary payments and deliveries required hereunder at the Closing which is scheduled to occur on or before February 15, 2007 ("Closing").

41. The representatives of the Debtor and MFI have made all necessary disclosures of the material terms and conditions of all anticipated employment, consulting and/or lease agreements between MFI and the Debtor's President, Mr. Dennis Bamber, and the Debtor's Vice President/Chief Financial Officer, Mr. Yoder. Such prospective arrangements have enhanced MFI's willingness to enter into the MFI Sale Agreement, and served to increase the



Purchase Price. In addition, all other prospective purchasers who inquired were also advised of the willingness of Messrs. Bamber and Yoder to entertain necessary agreements to facilitate the bidding should such party have been the successful bidder at the Auction, so that such issues did not adversely affect, but rather enhanced any prospective purchaser's interest in acquiring the Transferred Assets.

42. Based upon the record in this case as well as the testimony adduced in open court and statements of other parties present, and the lack of any challenge to MFI's good faith, MFI is a good faith, bona fide purchaser for the Transferred Assets, and the Purchase Price approved herein was not controlled by any agreement among the potential or actual bidders at the Auction or otherwise.

43. The Debtor, MFI, LaSalle and the Committee have each acted in good faith and have made all appropriate disclosures.

44. For the reasons stated in open court and herein, the relief requested in the Sale Motion, as modified herein, and authorization of the sale of the Transferred Assets, including but not limited to the Debtor's execution and performance of the MFI Sale Agreement, and the assumption and assignment of the Assumed Executory Contracts, is in the best interests of the Debtor, its estate, creditors, and other parties in interest, and based on the Sale Motion, the statements of counsel, the record of the Sale Hearing and in this Case complies with the sales procedures authorized by the Court herein and required by law.

45. In light of the SMI Termination, no Termination Fee shall be payable to SMI under the Bidding Procedures Order, the SMI Offer or otherwise.

46. The SMI Deposit shall be held pending further order of this Court.

**NOW, THEREFORE, THE COURT MAKES THE FOLLOWING  
CONCLUSIONS OF LAW:**

- A. This Court has jurisdiction over the subject matter of this Order pursuant to 28 U.S.C. §§1344(b) and (c), and applicable local rules regarding the referral to this Court of cases under title 11 of the United States Code.
- B. The entry of this Order and all proceedings relating thereto collectively constitute a "core proceeding" pursuant to, without limitation, 28 U.S.C. §§ 157(b)(2)(A), (M), (N) and (O).
- C. The Transferred Assets are property of the Debtor's estate. See 28 U.S.C. § 1334(e); 11 U.S.C. § 541(a).
- D. All interested parties (including, the U. S. Trustee, the Committee, MFI, SMI, all Secured Claimants, all known creditors of the Debtor and all parties requesting notice in this Case) had adequate notice of the Sale Motion, Bidding Procedures, assumption of Executory Contracts, Auction, and Sale Hearing were given an adequate and reasonable opportunity to make competing bids at the Auction and thereafter, and/or objections to the relief sought herein, or otherwise appear and be heard on the date hereof, and have submitted to the jurisdiction of this Court and are bound by this Order.
- E. The Debtor: (i) has full corporate power and authority to execute the MFI Sale Agreement and all other documents contemplated thereby, (ii) has all of the corporate power and authority necessary to consummate the transactions contemplated by the MFI Sale Agreement, (iii) has taken all corporate action necessary to authorize and approve the MFI Sale Agreement and the consummation by such Debtor of the transactions contemplated thereby.

F. As demonstrated by (i) the evidence proffered or adduced at the Sale Hearing, and (ii) the representations of counsel made on the record at the Sale Hearing and previous hearings on the Sale Motion, the Debtor has adequately marketed the Transferred Assets and conducted the sale process in substantial compliance with the Bidding Procedures Order.

G. Acceptance of the MFI Sale Agreement is in the best interests of this estate and the Debtor has demonstrated sound business justifications for the entry hereof pursuant to 11 U.S.C. § 363(b) prior to, and outside the context of, a plan of reorganization in that, among other things, its Transferred Assets are deteriorating in value, the Debtor is unable to fund a restructuring of its operations and there is an immediate need for the sale of the Transferred Assets to avoid irreparable diminution of the assets in this estate.

H. The consideration to be provided by MFI for the Transferred Assets pursuant to MFI Sale Agreement (i) is fair and reasonable, (ii) is the highest or otherwise best offer for the Transferred Assets, (iii) will provide a greater recovery for the Debtor's creditors and other interested parties than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States and the State of Indiana.

I. The Notice of the Sale Motion, Bidding Procedures, assumption of Executory Contracts, Auction, and Sale Hearing was fair, adequate, timely and sufficient under the circumstances and complied with 11 U.S.C. §§ 102(1), 105(a), 363, and 365, and Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure. No other or further notice of the Sale Motion, the Bidding Procedures, the Auction, Sale Hearing, or the assumption and assignment of the Assumed Executory Contracts is or shall be required, except as expressly provided herein.

J. The sale of the Transferred Assets pursuant to the MFI Sale Agreement will constitute a legal, valid, and effective transfer of the Transferred Assets, and shall be free and clear of any and all liens, claims, interests, liabilities and encumbrances whatsoever to the fullest extent permitted by Section 363(b) of the Bankruptcy Code with respect to the operation of the Business and/or the Transferred Assets prior to the date of the Closing whether arising under any employment, pension, environmental, advertising, or other similar laws or successor liability claims or interests or otherwise (collectively, "Interests"), including, without limitation: (i) all "liens" (as defined in Section 101(37) of the Bankruptcy Code, and whether consensual, statutory, possessory, judicial or otherwise); (ii) all "claims" (as defined in Section 101(5) of the Bankruptcy Code); (iii) all encumbrances of any kind in favor of the Secured Claimants or any other known creditors of the Debtor; and (iv) those Interests (1) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of the Debtor's or interest in the Transferred Assets, or any similar rights, and (2) relating to taxes arising under or out of, in connection with, or in any way relating to the operation of the Debtor's Business prior to the consummation of Closing. Any and all valid Interests shall attach to the proceeds of sale pursuant to Section 363(f) of the Bankruptcy Code, with the same validity and priority that existed immediately prior to the Closing.

K. The Debtor may sell the Transferred Assets free and clear of all Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in 11 U.S.C. § 363(f) has been satisfied. Those holders of Interests who did not object to the Sale Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those holders of Interests who did object fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Interests, if any, attach to the proceeds generated

under the MFI Sale Agreement from the Transferred Assets against or in which they claim or may claim an Interest, with the same validity and priority that existed immediately prior to the Closing; provided, however, that certain proceeds shall be disbursed in accordance with the terms and conditions hereof.

L. The Debtor shall be entitled, but not directed, to assume all of the Assumed Executory Contracts identified herein in accordance with the terms of Section 365(b)(1) of the Bankruptcy Code, and assign all of the Debtor's right, title and interest in and to the Assumed Executory Contracts to MFI at the Closing free and clear of any and all liens, claims, interests, liabilities and encumbrances to the fullest extent permitted by Section 363(b) of the Bankruptcy Code, subject to: (i) MFI identifying in writing to the Debtor prior to the Closing which of the Assumed Executory Contracts it has finally determined to have assumed and assigned to MFI pursuant to the Closing of the MFI Sale Agreement, and (ii) the Debtor's paying the Cure Costs for all such Assumed Executory Contracts at Closing or as soon thereafter as is practicable.

M. MFI would not have entered into the MFI Sale Agreement and will not consummate the transactions contemplated thereby, thus adversely affecting the Debtor, its estate, and its creditors, if the sale of the Transferred Assets were not free and clear of all Interests of any kind or nature whatsoever, or if MFI would, or in the future could, be liable for any of the Interests, and, subject to the terms of the MFI Sale Agreement, if the assignment of the Assumed Executory Contracts could not be made under 11 U.S.C. § 365.

N. The Agreement was negotiated, proposed and entered into by the Debtor and MFI without collusion, in good faith, and at arm's length bargaining positions. The Purchase Price for the Transferred Assets set forth in the MFI Sale Agreement was not controlled by any agreement among any potential or actual bidders, and neither the Debtor nor MFI have engaged in any

conduct that would cause or permit the Agreement to be avoided under 11 U.S.C. § 363(n). MFI is not an "insider" of the Debtor, as that term is defined in Section 101(31) of the Bankruptcy Code.

O. MFI is a good faith purchaser and, as such, is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code.

P. The Debtor has demonstrated that it is an exercise of its sound business judgment to assume and assign the Assumed Executory Contracts to MFI in connection with the consummation of the MFI Sale Agreement, and the assumption and assignment of the Assumed Executory Contracts is in the best interests of the Debtor, its estate, and its creditors. The Assumed Executory Contracts being assigned to, and the corresponding liabilities being assumed thereunder by, MFI are an integral part of the Transferred Assets being purchased by MFI and, accordingly, such, assumption and assignment are reasonable, enhance to value of the Debtor's estate, and do not constitute unfair discrimination.

Q. The authorization and consummation of the sale of the Transferred Assets, and the assumption and assignment of the Assumed Executory Contracts, pursuant to the terms and conditions of the MFI Sale Agreement at this time are in the best interests of the Debtor, its creditors, its estate and other parties in interest.

**NOW, THEREFORE, IT IS HEREBY ORDERED as follows:**

1. The above described findings of fact and conclusions of law be and are hereby incorporated herein as if fully set forth.
2. All objections to the Sale Motion or the relief requested therein and granted herein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits.

3. The Debtor be and is hereby ordered and directed forthwith to accept and execute the MFI Sale Agreement for the purchase of the Transferred Assets pursuant to the terms and conditions thereof and as announced in open court at the Sale Hearing, which MFI Sale Agreement shall be substantially in the form attached as Exhibit A hereto, and the MFI Sale Agreement is hereby approved.

4. The Debtor be and is hereby authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, such documents or instruments to transfer title of the Transferred Assets to MFI, and such other documents as may be necessary to effectuate the terms and conditions of this Order and the MFI Sale Agreement.

5. MFI shall have the benefits and protections of Section 363(m) of the Bankruptcy Code.

6. The adequacy and sufficiency of the form and amount of the Notice and the persons receiving notice of the Sale Motion, Bidding Procedures, assumption of Executory Contracts, Auction, Sale Hearing and MFI's participation herein are hereby approved and ratified.

7. Except as expressly set forth herein or in the MFI Sale Agreement, pursuant to 11 U.S.C. §§ 105(a) and 363(f), upon Closing, the sale and transfer of the Transferred Assets to MFI pursuant to the MFI Sale Agreement shall be free and clear of any and all Interests of any kind or nature whatsoever, with all such Interests to attach to the net sale proceeds in the order of their priority, and with the same validity, force and effect which they now have as against the Transferred Assets, subject to any claims and defenses the Debtor may possess with respect thereto; provided, however, that pursuant to Section 12 of the Final Financing Order, the Debtor is authorized and directed to remit to LaSalle at Closing an amount equal to the LaSalle

Indebtedness as agreed upon between the Debtor, the Committee and LaSalle or approved by order of the Court; and provided further, that nothing herein shall limit, affect, modify or impair the Committee's extension of the "Complaint Filing Deadline", as defined in the Final Financing Order and rights pursuant thereto, all of which rights are hereby expressly reserved.

8. The Debtor be and it hereby is authorized and directed to assume and assign to MFI at the Closing pursuant to 11 U.S.C. §§ 105(a) and 365(a) each of the Assumed Executory Contracts free and clear of all Interests of any kind or nature whatsoever, subject only to: (i) MFI identifying in writing to the Debtor prior to the Closing which of the Assumed Executory Contracts MFI has determined, in its sole and absolute discretion, to have assumed and assigned to MFI pursuant to the Closing of the MFI Sale Agreement, and (ii) the Debtor's paying to each of the non-debtor parties to all such Assumed Executory Contracts the Cure Costs at Closing or as soon thereafter as is practicable. The Assumed Executory Contracts assigned to MFI at Closing shall be transferred and assigned to, and following the Closing remain in full force and effect for the benefit of MFI in accordance with their respective terms, notwithstanding any provision in any such Assumed Executory Contract. The Debtor is hereby authorized and directed to execute and deliver to MFI such documents or other instruments as may be reasonably necessary to assign and transfer such Assumed Executory Contracts to MFI at Closing. The Debtor's counsel be and is hereby directed to send a copy of this Order to all non-debtor parties to the Assumed Executory Contracts at the addresses shown in the Assumption Notice within three (3) business days from the entry hereof.

9. All defaults, breaches or other obligations of the Debtor under any Assumed Executory Contract incurred, arising or accruing prior to the Closing (without giving effect to any acceleration clauses or any default provisions of any kind specified in Section 365(b)(2) of the



Bankruptcy Code) shall be deemed and considered cured in full by the Debtor and MFI, as applicable and in accordance with the MFI Sale Agreement, by the payment of the Cure Costs associated with such Assumed Executory Contract at the Closing or as soon thereafter as is practicable, and MFI shall have no liability or obligation with respect to defaults, breaches or other obligations incurred, arising or accruing prior to the Closing, except as otherwise expressly provided herein or in the MFI Sale Agreement.

10. Upon payment of the Cure Costs, each non-debtor party to any such Assumed Executory Contract is hereby forever barred, estopped, and permanently enjoined from asserting against the Debtor or MFI, or the property of either of them, any default or breach existing as of the Closing, or, as against MFI, any counterclaim, defense, setoff or any other claim asserted or assertable against the Debtor. MFI has provided adequate assurance of future performance of the Assumed Executory Contracts, as required by Sections 365 (b)(1) and (f)(2) of the Bankruptcy Code.

11. From and after the Closing, with the exception of the obligations to be expressly assumed pursuant to this Order and the MFI Sale Agreement, MFI is not assuming, and shall have no liability whatsoever for, any existing or future claims against or liabilities of the Debtor to any person whomsoever, including, without limitation, all creditors or persons holding claims against the Debtor (including any and all vendors of "Prepaid Inventory", as defined in the MFI Sale Agreement) or interests in the Debtor. All persons and entities holding any claims against the Debtor (including, without limitation, any and all vendors of Prepaid Inventory) are, to the fullest extent permitted by applicable law, forever barred from asserting any such existing or future claims or liabilities against MFI.

12. The terms and provisions of the MFI Sale Agreement, together with the terms and provisions of this Order, shall be binding in all respects on the Debtor, MFI, LaSalle, all Secured Claimants, all non-debtor parties to the Executory Contracts, the Committee, SMI, the Debtor's estate, all creditors (whether known or unknown, and whether holding contingent, unliquidated or disputed claims) and employees of the Debtor, any trustee appointed in this Case or in any subsequent case involving the Debtor under Chapter 7 or 11 of the Bankruptcy Code (and shall not be subject to rejection), and all other persons having any claim or Interest or asserting a claim against or an Interest in any of the Transferred Assets, including any assignees of any and all of the parties identified herein, and each of their respective predecessors or successors in interest and assigns.

13. Nothing contained in any chapter 11 plan confirmed in this Case or in any Order of the Court confirming any such chapter 11 plan shall conflict with or modify the rights of MFI pursuant to the provisions of the MFI Sale Agreement or this Order.

14. This Order (a) shall be effective as a determination that, as of the Closing, all Interests of any kind or nature whatsoever existing as or with respect to the Debtor or the Transferred Assets prior to the Closing have been unconditionally released, discharged and terminated (other than as expressly provided in the MFI Sale Agreement), and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all entities, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or

who may be required to report or insure any title or state of title in or to any of the Transferred Assets.

15. Effective upon the Closing, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release its Interests in the Transferred Assets, if any, as such Interests may have been recorded or any otherwise exist.

16. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing Interests in the Debtor or the Transferred Assets shall not have delivered to the Debtor prior to the Closing, in proper form for filing and executed by the appropriate parties, terminations statements, instruments of satisfaction, releases, of all Interests which the person or entity has with respect to the Debtor or the Transferred Assets or otherwise, then (a) the Debtor is hereby authorized to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Transferred Assets, and (b) MFI is hereby authorized to file, register, or otherwise record a certified copy of this Order, which once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Transferred Assets or any kind or nature whatsoever.

17. All entities who are presently, or on or after the Closing may be, in possession of some or all of the Transferred Assets are hereby directed to provide access to, and surrender possession of, the Transferred Assets to MFI on and after the Closing, with the Interests of such entity to be satisfied solely from the proceeds of the sale authorized herein.

18. MFI is a buyer in good faith of the Transferred Assets and Business, and is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code with respect thereto (including with respect to the assumption and assignment of any of the Assumed Executory Contracts).

19. All amounts that become due or payable by the Debtor to MFI pursuant to the terms of the MFI Sale Agreement or pursuant to any claim (as defined in section 101(5) of the Bankruptcy Code) made by MFI against the Debtor with respect to the MFI Sale Agreement shall (i) constitute allowed administrative expenses under section 503(b)(1) and 507(a)(2) of the Bankruptcy Code, (ii) be paid without further notice, motion or application to, hearing before, or order from the Bankruptcy Court and (iii) not be discharged, modified or otherwise affected by any plan of reorganization of the Debtor. MFI shall not be required to file any proof of claim or request for administrative expense with respect to any such amount.

20. This Court retains jurisdiction to construe and enforce this Order and determine and adjudicate any and all issues arising in connection with the MFI Sale Agreement.

21. No Termination Fee shall be payable to SMI under the Bidding Procedures Order, the SMI Offer or otherwise.

22. The SMI Deposit shall be held pending further order of this Court, and all parties expressly reserve each and every one of their respective rights, claims and remedies relating thereto, whether under the SMI Offer or otherwise.

23. The MFI Sale Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of this

Court, provided that any such modification, amendment or supplement is not a material modification of this Order and does not have a material, adverse effect on the Debtor's estate.

24. This Order is a final non-interlocutory order, shall be effective and enforceable immediately pursuant to Bankruptcy Rules 7062 and 9014, and pursuant to Bankruptcy Rules 6004(g) and 6006(d), the 10 day stay of this Order be and is hereby waived in its entirety.

ENTER:

  
\_\_\_\_\_  
U.S. BANKRUPTCY JUDGE

*This order prepared by:*

HOWARD L. ADELMAN, ESQ. (ARDC #0015458)  
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Attorneys for the Debtor

FINAL

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**ASSET PURCHASE AGREEMENT**

**DATED AS OF JANUARY 30, 2007**

**BY AND BETWEEN**

**MUSICIAN'S FRIEND, INC.**

**AND**

**DENNIS BAMBER, INC., D/B/A THE WOODWIND & THE BRASSWIND,**

**AND**

**ITS CHAPTER 11 ESTATE**

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made as of January 30, 2007, by and between Musician's Friend, Inc., a Delaware corporation ("Purchaser"), and Dennis Bamber, Inc., d/b/a The Woodwind & The Brasswind, an Indiana corporation, and its chapter 11 estate ("Seller"), pursuant to the following terms and conditions.

### Recitals:

- A. Seller has filed a voluntary petition (the "Petition") for reorganization relief pursuant to Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Indiana (the "Bankruptcy Court"), which case shall be administered pursuant to order of the Bankruptcy Court (the "Bankruptcy Case").
- B. Purchaser desires to purchase substantially all of the assets, contracts and properties of Seller related to the Business and to assume certain specified liabilities from Seller (the "Acquisition"), and Seller desires to sell, convey, assign, and transfer to Purchaser, such assets, contracts and properties together with such specified liabilities.
- C. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of substantially all of Seller's assets pursuant to Section 363 of the Bankruptcy Code.
- D. The execution and delivery of this Agreement and Seller's ability to consummate the transactions set forth in this Agreement are subject, among other things, to the entry of an order of the Bankruptcy Court under, inter alia, Sections 363 and 365 of the Bankruptcy Code.
- E. Seller and Purchaser have each approved the Acquisition.

### Agreement:

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the adequacy of which is hereby acknowledged, Purchaser and Seller hereby agree as follows:

### ARTICLE I DEFINITIONS

"Accounts Receivable/Inventory Adjustment Amount" shall have the meaning set forth in Section 2.4(a).

"Acquisition" shall have the meaning set forth in Recital B.

"Action" means any action, order, writ, injunction, judgment or decree outstanding or claim, suit, litigation, proceeding, investigation or dispute.

"Adjustment Payment" shall have the meaning set forth in Section 2.2(b)(iii).

"Affiliate" of a Person means a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the first-mentioned Person. For purposes of this definition, "control," when used with respect to any specified Person, means the power to direct or cause the direction of the management and policies of such Person, directly or

indirectly, whether through ownership of voting securities or by contract or otherwise, and the terms "controlling" and "controlled by" have meanings correlative to the foregoing.

"Allocation" shall have the meaning set forth in Section 2.7.

"Ancillary Agreements" means the Assumption Agreement, the Bill of Sale, the Noncompetition Agreement and each other agreement entered into in connection herewith.

"Assumed Accrued Liabilities" shall have the meaning set forth in Section 2.2(c).

"Assumed Liabilities" shall have the meaning set forth in Section 2.2(c).

"Assumption Agreement" shall have the meaning set forth in Section 2.3(b).

"Bankruptcy Case" shall have the meaning ascribed to such term in Recital A.

"Bankruptcy Code" shall have the meaning ascribed to such term in Recital A.

"Bankruptcy Court" shall have the meaning ascribed to such term in Recital A.

"Bankruptcy Rules" shall mean the Federal Rules of Bankruptcy Procedure.

"Barrington/LA Sax Agreement" shall have the meaning set forth in Section 10.2(b).

"Benefit Arrangement" means any employment, consulting, severance or other similar contract, arrangement or policy (written or oral) and each plan, arrangement, program, agreement or commitment (written or oral) providing for insurance coverage (including any self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, retirement benefits, life, health or accident benefits (including any "voluntary employees' beneficiary association" as defined in Section 501(c)(9) of the Code providing for the same or other benefits) or for deferred compensation, profit-sharing, bonuses, stock options, stock appreciation rights, stock purchases or other forms of incentive compensation or post-retirement insurance, compensation or benefits which (a) is not a Welfare Plan, Pension Plan or Multiemployer Plan and (b) is entered into, maintained, contributed to or required to be contributed to or has been entered into, maintained, contributed to or required to be contributed to, by any Seller or any ERISA Affiliate or under which any Seller or any ERISA Affiliate has or may have any Liability.

"Bill of Sale" shall have the meaning set forth in Section 2.3(b).

"Business" means Seller's businesses of marketing, selling, refurbishing or repairing or otherwise providing musical instruments, as well as all other products, parts, accessories, print materials, supplies and services related to such instruments to consumers, students, schools and other educational institutions, whether through the Store / Headquarters, the internet, catalog, mail order, direct response sales or otherwise.

"Business Day" means any day other than a Saturday or Sunday or a legal holiday on which banks in Los Angeles, California or New York, New York are closed.

"Cash" means cash and cash equivalents, including marketable securities and short-term investments.

"CERCLA" shall have the meaning set forth in the definition of "Environmental Laws."

"Closing" shall have the meaning set forth in Section 2.3(a).

"Closing Date" shall have the meaning set forth in Section 2.3(a).

"Closing Date Payment" shall have the meaning set forth in Section 2.2(b)(i).

"Closing Date Qualified Accounts Receivable" shall have the meaning set forth in Section 2.5(a).

"Closing Inventory" shall have the meaning set forth in Section 2.6(a).

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

"Contracts" means all agreements, contracts, leases (whether for real or personal property), purchase orders, undertakings, covenants not to compete, employment agreements, confidentiality agreements, licenses, instruments, obligations and commitments relating to the Business or any of the Transferred Assets, whether written or oral.

"Court Order" means any judgment, decision, consent decree, injunction, ruling or order of any foreign, federal, state or local court or governmental agency, department or authority that is binding on any Person or its property under applicable law.

"Cure Costs" means all liabilities, obligations and commitments of Seller for all cure, compensation and reinstatement costs or expenses of or relating to the assumption and assignment of any Contracts to be assumed and assigned as part of the Transferred Assets that are payable or necessary to cure any defaults pursuant to Section 365 of the Bankruptcy Code on account of any obligation or default arising on or before the Closing Date.

"Default" means (a) a breach of or default under any Contract, (b) the occurrence of an event that with or without the passage of time or the giving of notice or both would constitute a breach of or default under any Contract or (c) the occurrence of an event that with or without the passage of time or the giving of notice or both would give rise to a right of termination, renegotiation or acceleration, or the modification of the terms or conditions, under any Contract.

"Defective Merchandise" means any item of Inventory that is damaged or defective and not saleable as "new."

"Designated Employees" shall have the meaning set forth in Section 5.10(b).

"Disclosure Schedule" means the written disclosure schedule of Seller delivered to Purchaser prior to the date hereof, a copy of which is attached hereto.

"Display, Return and Obsolete Merchandise" means any item of Inventory that (a) has been removed from its packaging, or installed, affixed or modified for purposes of a sample, display or for demonstrating its function or design and is not saleable as "new" under Seller's historic sales practices, (b) has been returned by a customer and is not resalable as "new," under Seller's historic sales practices, or (c) has been discontinued by the applicable vendor.

"Distribution Center" means the distribution center of Seller located at 4955 Ameritech Drive, South Bend, Indiana 46628.

"Employee Plans" means all Benefit Arrangements, Multiemployer Plans, Pension Plans and Welfare Plans.

"Employee Plan Liabilities" means any Liability under, relating to or with respect to any Employee Plans, including any Liability of any Employee Plan, Seller or any ERISA Affiliate.

"Employees" means all officers and directors of Seller and all other Persons employed by Seller in connection with the Business on a full or part-time basis together with all persons retained as "independent contractors" in connection with the Business as of the relevant date.

"Encumbrance" means any claim, lien, pledge, option, charge, easement, Tax assessment, security interest, deed of trust, mortgage, right-of-way, encroachment, building or use restriction, conditional sales agreement, encumbrance or other right of third parties of any sort whatsoever, whether voluntarily incurred or arising by operation of law, and includes any agreement to give any of the foregoing in the future, and any contingent sale or other title retention agreement or lease in the nature thereof, other than Permitted Encumbrances.

"Entity" means any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, cooperative, foundation, society, political party, union, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

"Environmental Condition" means the state of the environment, including natural resources (e.g., flora and fauna), soil, surface water, ground water, any present or potential drinking water supply, subsurface strata or ambient air, relating to or arising out of the use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, disposal, dumping or threatened release of Hazardous Substances by Seller or any of its predecessors or successors in interest, or by any of its agents, Representatives, employees or independent contractors when acting in such capacity on behalf of Seller.

"Environmental Laws" means all applicable federal, state, district and local laws, all rules or regulations promulgated thereunder, and all orders, consent orders, judgments, notices, permits or demand letters issued, promulgated or entered pursuant thereto, relating to pollution or protection of the environment (including ambient air, surface water, ground water, land surface or subsurface strata), including (a) laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, industrial materials, wastes or other substances into the environment and (b) laws relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, recovery, transport or other handling of pollutants, contaminants, chemicals, industrial materials, wastes or other substances. Environmental Laws shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Toxic Substances Control Act, as amended, the Hazardous Materials Transportation Act, as amended, the Resource Conservation and Recovery Act, as amended, the Clean Water Act, as amended, the Safe Drinking Water Act, as amended, the Clean Air Act, as amended, the Occupational Safety and Health Act, as amended, and all analogous laws promulgated or issued by any Governmental Body.

"Environmental, Health and Safety Liability" means any cost, damage, Liability or other responsibility of Seller arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to: (a) any environmental, health, or safety matters or conditions (including on-site or off-site contamination, occupational safety and health, and regulation of chemical substances or products); (b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands and response, investigative, remedial, or inspection costs and expenses

arising under Environmental Law or Occupational Safety and Health Law; (c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any investigation, cleanup, removal, containment, or other remediation or response actions ("Cleanup") required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any governmental body or any other Person) and for any natural resource damages; or (d) any other compliance, corrective, investigative, or remedial measures required under Environmental Law or Occupational Safety and Health Law. The terms "removal," "remedial," and "response action," include the types of activities covered by CERCLA.

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

"ERISA Affiliate" means any Entity which is (or at any relevant time was) a member of a "controlled group of corporations" with, under "common control" with, or a member of an "affiliated service group" with, or otherwise required to be aggregated with, Seller as set forth in Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

"Excluded Assets" means Seller's (a) rights under this Agreement, (b) Cash, (c) avoidance and other bankruptcy estate causes of action under the Bankruptcy Code to which Seller is, or becomes, a party, (d) all claims and causes of action of any kind or nature relating to (i) the Excluded Assets, or (ii) any shareholder, officer and/or director of Seller (as such) or any agreements between Seller and any or all of its shareholders (as such), excluding for purposes of this clause (ii) all claims and causes of action of any kind or nature against David Yoder, (e) retainers and prepayments for Professional Fees, (f) all claims for refunds (together with interest accrued thereon) of Seller related to Taxes in respect of periods ending on or prior to the Closing, (g) all rights in connection with and the assets of any Employee Plans, (h) Seller's minute books and stock records and other documents relating to the organization, maintenance and existence of Seller, (i) Seller's prepaid business, group and other insurance policies (including without limitation the cash surrender value of any Seller-owned life insurance policies), Contracts of insurance, all coverage, proceeds and recoveries thereunder and all rights in connection therewith to the extent unrelated to the Transferred Assets, (j) the capital stock or other ownership interest held by Seller in any Subsidiary (it being understood, however, that any assets of a Subsidiary shall nonetheless constitute Transferred Assets hereunder unless any such asset shall be in the nature of an Excluded Asset), (k) rights under the Asset Purchase Agreement, dated as of December 15, 2006, between Seller, its Chapter 11 Estate and Steinway Musical Instruments, Inc., (l) the Government A/R as of the Closing Date, and (m) the assets identified in Section 1.1(a) of the Disclosure Schedule.

"Excluded Liabilities" shall have the meaning set forth in Section 2.2(d).

"Expense Reimbursement Amount" means all reasonable out-of-pocket costs and expenses actually incurred by Purchaser (including expenses of counsel, accountants, experts and other outside consultants and legal expenses related to negotiating this Agreement and investigating Seller or the Transferred Assets), not to exceed \$350,000, which shall, subject to Bankruptcy Court approval, constitute a priority administrative expense under Section 503(b)(1) of the Bankruptcy Code and shall be paid as set forth in Sections 5.7 and 9.3.

"Facilities" means all offices, stores, warehouses, administration buildings, plants, other facilities and all real property and related facilities owned or leased by Seller, including the Store / Headquarters and the Distribution Center.

"Facilities Leases" shall have the meaning set forth in Section 3.3(b).

"Final Order" means an order of the Bankruptcy Court or other court of competent jurisdiction as to which no appeal, notice of appeal or motion for rehearing or new trial has been timely filed or, if any of the foregoing has been timely filed, no stay shall have issued.

"Fixtures and Equipment" means all of the (a) furniture, office equipment, fixtures, and furnishings of Seller, (b) machinery, computer hardware, automobiles, trucks, trailers, vehicles, spare parts, supplies, equipment, racking, shelving, tools, supplies, molds, jigs, patterns, dies, Refurbishment Equipment and other tangible personal property owned or leased by Seller that is used in the Business, wherever located, and (c) all warranty rights associated with the foregoing.

"Government A/R" shall mean trade accounts receivable payable to the Seller from federal, state or local governments.

"Governmental Authorization" means any approval, consent, license, permit, waiver, or other authorization issued, granted or otherwise made available by or under the authority of any Governmental Body.

"Governmental Body" means any: (a) nation, principality, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or Entity and any court or other tribunal); (d) multi-national organization or body; or (e) individual, Entity or body exercising, or entitled to exercise, any executive, legislative, judicial, administrative, regulatory, police, military or Taxing authority or power of any nature.

"Hazardous Substances" means all pollutants, contaminants, chemicals, wastes and any other carcinogenic, ignitable, corrosive, reactive, toxic or otherwise hazardous substances or materials (whether solids, liquids or gases) subject to regulation, control or remediation under Environmental Laws.

"Holdback Amount" means \$1,500,000.

"Indebtedness" means (a) any obligation for borrowed money, including any obligation for accrued and unpaid interest thereon and any prepayment or other penalties or premiums, (b) any capitalized lease obligations, (c) any obligation evidenced by a note, deed, mortgage or secured by any property of Seller, (d) any reimbursement obligations in respect of letters of credit, (e) any and all obligations of Seller pursuant to the terms of the LaSalle Equipment Lease, including without limitation all amounts necessary to exercise the purchase option thereunder, and (f) all guarantees issued in respect of obligations of any other Person of the type described in clauses (a) through (e).

"Intangible Assets" means an asset, such as goodwill, Intellectual Property rights or similar assets, with no physical properties.

"Intellectual Property" means (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto and all patents, patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions and reexaminations thereof, (b) all United States or foreign trademarks, service marks, trade dress, logos, trade names and corporate names, together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith and all applications, registrations and renewals in connection therewith, (c) all copyrightable works, all copyrights and all applications, registrations and renewals in connection therewith, (d) all mask works and all applications, registrations

and renewals in connection therewith, (e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, techniques, designs, drawings, specifications, customer and supplier lists and databases, sales literature, promotional literature, lists of distributors, artwork, purchasing records, pricing and cost information, business and marketing plans and proposals, and related documentation), (f) all computer software (excluding software commonly available through licenses on standard commercial terms, such as software "shrink-wrap" licenses, it being understood that such licenses nonetheless constitute Transferred Assets), including data and related documentation and all software necessary to maintain the operation of the Business, URLs, web sites, web portals, and other forms of technology, (g) all other proprietary rights related to the Business or the Transferred Assets, (h) all copies and tangible embodiments thereof (in whatever form or medium) and (i) all rights to use telephone and facsimile numbers related to the Business or the Transferred Assets.

"Inventory" means all merchandise owned and intended for resale in connection with the Business (including all Prepaid Inventory), all manufactured and purchased parts, goods in process, raw materials, supply and packing materials and finished goods and other tangible personal property that is used in connection with the Business, including all instruments on hand at the Store / Headquarters, loan, consignment and approval instruments, all Defective Merchandise and all Display and Return Merchandise, in each case wherever located.

"Inventory Value" shall have the meaning set forth in Section 2.6(a).

"Key Software Licenses" shall have the meaning set forth in Section 3.17(d).

"LaSalle Equipment Lease" shall mean the Master Lease Agreement between Seller and LaSalle National Leasing Corporation dated June 27, 2005.

"Leased Real Property" shall have the meaning set forth in Section 3.3(b).

"Legal Requirement" means any applicable federal, state, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance, code, edict, decree, proclamation, treaty, convention, rule, regulation, ruling, directive, pronouncement, requirement, notice requirement, guideline, Court Order, specification, determination, decision, opinion or interpretation issued, enacted, adopted, passed, approved, promulgated, made, implemented or otherwise put into effect by or under the authority of any Governmental Body.

"Liabilities Adjustment Amount" shall have the meaning set forth in Section 2.4(b).

"Liability" means any direct or indirect liability, indebtedness, obligation, commitment, expense, claim, deficiency, guaranty or endorsement of any type whatsoever, whether accrued or unaccrued, absolute or contingent, matured or unmatured, liquidated or unliquidated, known or unknown, asserted or unasserted, due or to become due.

"Material Adverse Effect" means any material adverse effect on or change with respect to the business, operations, assets, Liabilities, financial condition, results of operations, properties or prospects of Seller or the Business taken as a whole that (a) results in the inability of Seller to convey to Purchaser all of the material elements necessary to conduct the Business, including the Intellectual Property used in the Business, accounts receivable, Facilities, Inventory and other assets as contemplated by this Agreement, or (b) results in the Facilities ceasing to materially operate in their current condition; provided, however, that any effect or change arising out of or resulting from any of the following shall not be deemed (either alone or in combination) a Material Adverse Effect: (i) the filing of the Bankruptcy



Case or the announcement or pendency of the Acquisition or (ii) conditions affecting the industry or industry sector in which Seller participates or the United States economy as a whole.

"Material Contracts" shall have the meaning ascribed to such term in Section 3.6(a).

"Multiemployer Plan" means any "multiemployer plan," as defined in Section 3(37) or 4001(a)(3) of ERISA, which any Seller or any ERISA Affiliate maintains, administers, contributes to or is required to contribute to, or maintained, administered, contributed to or was required to contribute to, or under which any Seller or any ERISA Affiliate has or may have any Liability.

"Noncompetition Agreement" shall have the meaning set forth in Section 2.3(b).

"Nonqualifying Closing Inventory" shall have the meaning set forth in Section 2.6(a).

"Occupational Safety and Health Law" means any applicable Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards.

"Owned Real Property" means any real property owned in fee by Seller.

"Party" shall mean any Person who is a party to this Agreement.

"PBGCC" shall mean the Pension Benefit Guaranty Corporation.

"Pension Plan" means any "employee pension benefit plan" as defined in Section 3(2) of ERISA (other than a Multiemployer Plan) which Seller or any ERISA Affiliate maintains, administers, contributes to or is required to contribute to, or maintained, administered, contributed to or was required to contribute to, or under which Seller or any ERISA Affiliate has or may have any Liability.

"Permits" means all licenses, permits, franchises, approvals, authorizations, consents or orders of, or filings with, any Governmental Body, necessary or customary for the present conduct or operation of the Business or ownership of the Transferred Assets.

"Permitted Encumbrances" means the Encumbrances identified in Section 1.1(b) of the Disclosure Schedule.

"Person" means an individual, Entity or Governmental Body.

"Personal Property Transferred Assets" shall have the meaning set forth in Section 3.4(a).

"Petition" shall have the meaning ascribed to such term in the recitals hereof.

"Petition Date" shall mean the date that Seller commence the Bankruptcy Case before the Bankruptcy Court.

"Pre-Closing Period" means the period from the date of the Agreement through the Closing Date.

"Preliminary Estimate" shall have the meaning set forth in Section 2.6(a).

"Prepaid Inventory" means Inventory which the Seller has paid for in whole or in part, but which the Seller has not yet received from the vendor.

"Proceeding" means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding and any informal proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or any arbitrator or arbitration panel.

"Professional Fees" shall mean compensation for fees or reimbursement of expenses of any Person in the Bankruptcy Case under Sections 327, 328, 329, 330, 331, 364, 503 or 506 of the Bankruptcy Code or otherwise.

"Purchaser" shall have the meaning set forth in the preamble.

"Purchase Price" means (a) the Closing Date Payment, plus (b) the Adjustment Payment, plus (c) the Assumed Liabilities.

"Refurbishment Equipment" means any tools, supplies, inventory and spare parts used primarily in Seller's repair or refurbishment of instruments.

"Related Party" means (a) any officer, director or shareholder of Seller, and any officer, director, partner, manager, or relative of such officers, directors and shareholders, and (b) any Person in which Seller or any Affiliate or relative of any such Person has any direct or indirect interest.

"Representative" means, with respect to any Person, any officer, director, principal, attorney, accountant, agent, employee, financing source or other representative of such Person.

"Sale Hearing" means the hearing conducted by the Bankruptcy Court to approve the transactions contemplated by this Agreement.

"Sale Motion" means the motion, in form and substance reasonably acceptable to Seller and Purchaser, filed by Seller pursuant to, *inter alia*, Sections 363 and 365 of the Bankruptcy Code to obtain the Sale Order and approve the transactions contemplated by this Agreement.

"Sale Order" means an order of the Bankruptcy Court, in form and substance substantially identical to the sale order attached hereto as Exhibit C, with such subsequent changes reasonably acceptable to Purchaser.

"Seller" shall have the meaning set forth in the preamble.

"Seller's Cost" shall have the meaning set forth in Section 2.6(b).

"Store / Headquarters" mean Seller's retail store and headquarters located at 4004 Technology Drive, South Bend, Indiana 46628.

"Subsidiary" means, with respect to any Person, (a) any corporation of which at least 50% of the securities or interests having, by their terms, ordinary voting power to elect members of the board of directors, or other persons performing similar functions with respect to such corporation, is held, directly or indirectly by such Person and (b) any partnership or limited liability company of which (i) such Person is a general partner or managing member or (ii) such Person possesses a 50% or greater interest in the total capitalization or total income of such partnership or limited liability company.

"Tax" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs

duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

“Tax Return” means any return, declaration, report, claim for refund, transfer pricing report or information return, or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

→ “Transferred Assets” shall have the meaning set forth in Section 2.1.

“Transferred Employees” means Persons who were Employees of Seller immediately prior to the Closing who become employees of Purchaser or one of its Affiliates at the Closing.

“Welfare Plan” means any “employee welfare benefit plan” as defined in Section 3(1) of ERISA, which Seller or any ERISA Affiliate maintains, administers, contributes to or is required to contribute to, or maintained, administered, contributed to or was required to contribute to, or under which Seller or any ERISA Affiliate has or may have any Liability.

## ARTICLE 2 PURCHASE AND SALE OF TRANSFERRED ASSETS; CLOSING

2.1 Purchase of Transferred Assets. At the Closing, Seller shall cause to be sold, assigned, transferred, conveyed and delivered to Purchaser good and valid title to the Transferred Assets, free of any Encumbrances, on the terms and subject to the conditions set forth in this Agreement and in accordance with Sections 363 and 365 of the Bankruptcy Code. For purposes of this Agreement, “Transferred Assets” means and includes substantially all of the properties, rights, interests and other tangible and intangible assets of Seller and its Subsidiaries relating to the Business (wherever located and whether or not required to be reflected on a balance sheet prepared in accordance with generally accepted accounting principles) and all Intellectual Property of Seller including any assets acquired by Seller during the Pre-Closing Period; provided, however, that the Transferred Assets shall not include any Excluded Assets. Without limiting the generality of the foregoing and except for the Excluded Assets, the Transferred Assets shall include:

(a) Receivables. All accounts receivable (including all Closing Date Qualified Accounts Receivable), notes receivable and other receivables of Seller relating to the Business, and all rights to collect from customers (and to retain) all fees and other amounts payable, or that may become payable, to Seller with respect to products sold or services performed by or on behalf of Seller in connection with the Business on or prior to the Closing Date, but excluding the Government A/R;

(b) Inventory. All Inventory (including without limitation all rights in respect of Prepaid Inventory and any pending but not received merchandise returns from customers);

(c) Contracts. All rights of Seller under (i) purchase orders or similar agreements (A) for branded product, and (B) for the proprietary products identified in Section 2.1(c) of the Disclosure Schedule, and (ii) the other executory Contracts relating to the Business identified in Section 2.1(c) of the Disclosure Schedule, including all confidentiality, non-disclosure and non-solicitation agreements to which Seller is a party; provided, however, that Purchaser may add or remove Contracts from Section 2.1(c) of the Disclosure Schedule at any time or from time to time up to the close of business on the Business Day before the Sale Hearing;

- (d) Intellectual Property. All Intellectual Property of Seller used in the Business, including the items set forth in Sections 2.1(d) and 3.17(c) of the Disclosure Schedule and software commonly available through licenses on standard commercial terms, such as software "shrink-wrap" licenses;
- (e) Books and Records. All books, papers, records, files, data (in paper or electronic format) of Seller, including all purchasing and sales records, customer lists, vendor lists and accounting and financial records;
- (f) Permits. All Permits, to the extent transfer is permitted under applicable law;
- (g) Prepaid Expenses and Deposits. All right, title and interest in and to all prepaid expenses and deposits relating to the Business, including all security or other deposits held by any third party with respect to the Store / Headquarters and Distribution Center;
- (h) Causes of Actions. All claims, deposits, prepayments, refunds, causes of action, choses in action, rights of recovery, rights of setoff and rights of recoupment arising out of or relating to the Business or the Transferred Assets;
- (i) Personal and Other Property. Any other assets, including Fixtures and Equipment, owned by Seller used in the operation of the Business as well as all property presently subject to the LaSalle Equipment Lease;
- (j) Facilities Leases. All of Seller's right, title and interest in, to and under Leases relating to the Store / Headquarters and the Distribution Center, subject to Section 10.2;
- (k) Insurance Proceeds. Proceeds under any insurance policy of Seller received or receivable with respect to any Transferred Asset;
- (l) Warranty and Similar Rights. All rights and claims of Seller pursuant to warranties, representations, guarantees and indemnities made by suppliers in connection with the Transferred Assets or service furnished to Seller pertaining to or affecting the Transferred Assets; and
- (m) Goodwill. Any and all goodwill related to the Business or any of the foregoing.

## 2.2 Consideration.

- (a) Reserved.
- (b) Cash Consideration. As consideration for the sale of the Transferred Assets to Purchaser:
- (i) Purchaser shall pay to Seller \$26,095,000 in cash (the "Closing Date Payment") on the Closing Date in accordance with Section 2.3(b)(i);
- (ii) Purchaser shall assume the Assumed Liabilities on the Closing Date in accordance with Section 2.2(c); and
- (iii) Purchaser shall pay to Seller the Holdback Amount, minus the Accounts Receivable/Inventory Adjustment Amount, and plus or minus the Liabilities Adjustment Amount (collectively, the "Adjustment Payment"), no later than two (2) Business Days after the latest to occur of

**Section 2.1(d) of the Disclosure Schedule**

**Intellectual Property**

See Section 3.17 of the Disclosure Schedule.

## Section 3.17 of the Disclosure Schedule

## Intellectual Property

(a)(i) None.

(a)(ii) See Section 3.6(a) of the Disclosure Schedule.

(a)(iii) Trademarks/Patents/URLs

## TRADEMARKS

<u>MARK</u>	<u>COUNTRY</u>	<u>STATUS</u>	<u>APP. NO./REG. NO.</u>
5TH GEAR	U.S.	ALLOWED	78/783809
ADESSO	EUROPEAN COMMUNITY	FILED	004959813
ADESSO	NORWAY	FILED	200602683
ADESSO	SWITZERLAND	REGISTERED	547 954
ADESSO	U.S.	REGISTERED	3,158,086
AJ'S PRO PERCUSSION (and design)	U.S.	REGISTERED	3,073,117
AJ'S PRO PERCUSSION (and design)	FLORIDA	REGISTERED	T99000000892
ALLORA	U.S.	REGISTERED	2,711,231
ARCOLLA CF	U.S.	REGISTERED	2,980,482
BAJA (and design)	U.S.	REGISTERED	2,913,700
BAND123	U.S.	REGISTERED	2,689,669
BAND123	U.S.	REGISTERED	2,680,722
BANDNOW (and design)	U.S.	REGISTERED	2,789,241
BELLAFINA	U.S.	REGISTERED	2,577,867
CHICAGO JAZZ	EUROPEAN	REGISTERED	002 943 439

SERIES	COMMUNITY		
CHICAGO JAZZ SERIES	U.S.	REGISTERED	2,746,794
DAVE GUARDALA	U.S.	PROPOSED	N/A
DG	U.S.	PROPOSED	N/A
DRUMS IN THE WIND	U.S.	REGISTERED	1,867,349
DRUMWIND	U.S.	REGISTERED	2,914,943
ECHO MAN	U.S.	ALLOWED	78/783810
FATBOY	U.S.	PROPOSED	N/A
FLOREA (Stylized)	U.S.	REGISTERED	2,819,420
FULLERTON	CHINA (People's Republic)	FILED	4742342
FULLERTON	U.S.	REGISTERED	1,922,887
FULLERTON	U.S.	ALLOWED	76/314703
GRIME GUTTER	U.S.	REGISTERED	1,318,025
GUITAR SALE	U.S.	FILED	78/712559
GUITARS123.COM	U.S.	REGISTERED	2,802,687
JET	U.S.	REGISTERED	1,066,693
JET-TONE	U.S.	REGISTERED	1,107,200
JO-RAL	U.S.	REGISTERED	1,654,877
KARL WILLHELM	U.S.	REGISTERED	2,542,706
KEYTECH (stylized)	EUROPEAN COMMUNITY	FILED	004979928
KEYTECH (stylized)	NORWAY	FILED	200602711
KEYTECH (stylized)	SWITZERLAND	FILED	01179/2006
KEYTECH (stylized)	U.S.	REGISTERED	3,158,209

LASER TRIMMED	U.S.	REGISTERED	2,562,681
LAZER	U.S.	REGISTERED	1,692,880
LYON DESIGN	U.S.	REGISTERED	1,318,652
LYONS	U.S.	REGISTERED	1,446,299
LYONS	U.S.	REGISTERED	1,276,584
LYONS (and design)	U.S.	REGISTERED	1,318,653
MAINLINE	CHINA (People's Republic)	FILED	4764918
MAINLINE	EUROPEAN COMMUNITY	REGISTERED	4466355
MAINLINE	JAPAN	REGISTERED	4916507
MAINLINE	U.S.	ALLOWED	78/602010
MAINLINE AUDIO	CHINA (People's Republic)	FILED	4764919
MAINLINE AUDIO	EUROPEAN COMMUNITY	REGISTERED	004460523
MAINLINE AUDIO	JAPAN	REGISTERED	4916508
MAINLINE AUDIO	U.S.	ALLOWED	78/602107
METAL MAN	U.S.	ALLOWED	78/783814
MISUPPLY	U.S.	REGISTERED	2,813,387
MOLTO PRESTO	U.S.	REGISTERED	2,731,573
MUSIC AS EASY AS 123	U.S.	PUBLISHED	78/759285
MUSIC123	BENELUX	REGISTERED	780227
MUSIC123	BRAZIL	PUBLISHED	827803508
MUSIC123	CHINA (People's Republic)	FILED	4563652



MUSIC123	CHINA (People's Republic)	FILED	4751862
MUSIC123	EUROPEAN COMMUNITY	REGISTERED	004258067
MUSIC123	JAPAN	REGISTERED	2005-39576
MUSIC123	TAIWAN	REGISTERED	1190468
MUSIC123.COM	AUSTRALIA	REGISTERED	828785
MUSIC123.COM	EUROPEAN COMMUNITY	REGISTERED	1562669
MUSIC123.COM (and design)	CANADA	REGISTERED	TMA591577
MUSIC123.COM (and design)	U.S.	REGISTERED	2,627,153
MUSIC123.COM	U.S.	REGISTERED	2,387,979
MUSICAL SANDBOX	U.S.	PUBLISHED	78/730891
PLAY NOW	U.S.	REGISTERED	2,942,606
PLAYTEST	FRANCE	REGISTERED	98764895
PLAYTEST	GERMANY	REGISTERED	39872728
PLAYTEST	U.S.	REGISTERED	2,324,958
RAZOR PHASER	U.S.	ALLOWED	78/783816
RIA FINE SAXOPHONE & CLARINET MOUTHPIECES	U.S.	REGISTERED	1,682,861
ROCKWIND	U.S.	REGISTERED	2,946,523
SHEEN MACHINE	U.S.	ALLOWED	78/783812
SHEETMUSIC123.COM	U.S.	REGISTERED	2,847,715
SHOPCHECK	FRANCE	REGISTERED	98764894

SHOPCHECK	GERMANY	REGISTERED	39872727
SHOPCHECK	U.S.	REGISTERED	2,324,957
THE MUSIC GEAR GARAGE	U.S.	ALLOWED	78/648056
THE STRING CENTRE (stylized)	U.S.	REGISTERED	2,980,483
THE WOODWIND & THE BRASSWIND	U.S.	REGISTERED	1,927,030
VALDESTA (stylized)	U.S.	REGISTERED	3,007,043
VERVE (stylized and design)	U.S.	REGISTERED	2,822,780
WOLFPK (and design)	U.S.	REGISTERED	1,804,375
WOODWIND & BRASSWIND	AUSTRALIA	FILED	1068505
WOODWIND & BRASSWIND	CANADA	REGISTERED	TMA671,621
WOODWIND & BRASSWIND	JAPAN	FILED	200579305
WOODWIND & BRASSWIND	TAIWAN	FILED	094044071
WOODWIND & BRASSWIND (Logo and words)	EUROPEAN COMMUNITY	FILED	4612297
WOODWIND & BRASSWIND (stylized)	CHINA (People's Republic)	FILED	4865674
WOODWIND & BRASSWIND (stylized)	CHINA (People's Republic)	FILED	4865675
WWBW	BENELUX	REGISTERED	780228

## PATENTS