

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Big Sky Carvers, LLC	FORMERLY n/a	12/01/2008	LIMITED LIABILITY COMPANY: DELAWARE

**RECEIVING PARTY DATA**

<b>Name:</b>	The Yellowstone Company, LLC
<b>Trading As:</b>	TA Big Sky Carvers
<b>Street Address:</b>	308 E. Main St.
<b>City:</b>	Manhattan
<b>State/Country:</b>	MONTANA
<b>Postal Code:</b>	59741
<b>Entity Type:</b>	LIMITED LIABILITY COMPANY: MONTANA

**PROPERTY NUMBERS Total: 12**

Property Type	Number	Word Mark
Registration Number:	2721009	BEARFOOTS
Registration Number:	2546117	BIG SKY BEARS
Registration Number:	3303264	BIG SKY CABIN CANDLES
Registration Number:	3043437	BIG SKY CANINE
Registration Number:	2720584	BIG SKY CARVERS
Registration Number:	3341981	BIG SKY SILVER
Registration Number:	2965996	CAMP CREEK CO.
Registration Number:	3064883	CAMP CREEK CO.
Registration Number:	2704425	KRITTERS OF ADVENTURE
Serial Number:	77141171	ROCK THE FLOCK
Registration Number:	2539380	MONTANA BRONZES
Registration Number:	2781722	SINGING TREE

OP \$315.00 2721009

CORRESPONDENCE DATA

Fax Number: (406)523-2595  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
Phone: 406-523-2500  
Email: rclukes@garlington.com  
Correspondent Name: Robert C. Lukes  
Address Line 1: 199 West Pine St.  
Address Line 4: Missoula, MONTANA 59802

NAME OF SUBMITTER:	Robert C. Lukes
Signature:	/Robert C. Lukes/
Date:	12/30/2008

Total Attachments: 27

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## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement") is made and entered into as of December 1, 2008, by and among The Yellowstone Company, LLC, a Montana limited liability company ("Buyer"), Group Montana, Inc., a Delaware corporation ("GMI"), Montana Silversmiths, Inc., a Delaware corporation ("MS"), Big Sky Carvers, LLC, a Delaware limited liability company ("BSC"), and together with GMI and MS, each, a "Seller", and collectively, the "Sellers", and Marc Pierce, an individual ("Pierce"). Definitions of certain capitalized terms used in this Agreement are set forth on or referred to on Exhibit A.

### RECITALS

A. Sellers own and operate Big Sky Carvers which is a business that manufactures, distributes and sells lodge and outdoor-themed products, including, without limitation, sculptures, carvings, furniture and decorations (collectively, the "Business");

B. Buyer's Affiliate previously owned the Business and sold the Business to Sellers on June 5, 2005; and

C. Buyer desires to purchase and Sellers desire to sell or cause to be sold certain assets and properties of the Business on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

### ARTICLE I ACQUISITION OF ASSETS

1.1. Purchased Assets. Upon the terms and subject to the conditions of this Agreement, effective as of the Effective Time, each Seller shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall acquire from each Seller, free and clear of all Liens and other restrictions of any kind other than the Assumed Liabilities and the Permitted Liens, the following assets related to the Business (to the extent owned by each Seller as may be indicated on Schedules 1.1(a) through 1.1(h)) (collectively, the "Purchased Assets"):

(a) all inventory and deposits made in connection therewith listed on Schedule 1.1(a);

(b) all personal property listed on Schedule 1.1(b);

(c) all contracts listed on Schedule 1.1(c) (the "Assumed Contracts");

(d) all of the Licensed Software listed on Schedule 1.1(d);

(e) all intellectual property listed on Schedule 1.1(e) (collectively, the "Intellectual Property");

- (f) all domain names and e-mail addresses listed on Schedule 1.1(f);
- (g) all telephone and facsimile phone numbers for the Business listed on Schedule 1.1(g);
- (h) all of Sellers' personal property located in the Manhattan Office, the Atlanta Showroom and the Las Vegas Showroom, as well as all of Sellers' personal property located in the MS HQ that is listed on Schedule 1.1(h); and
- (i) the Business as a going concern and all goodwill in connection with the Business.

1.2. Excluded Assets. The Purchased Assets shall not include, and Sellers shall retain, all of their respective assets that are not identified in Section 1.1 as Purchased Assets (e.g., the Business A/R), and the OEM shipments and deliveries that were fully paid by Sellers on or prior to the Effective Time which are identified on Schedule 1.2 (the "Excluded Assets").

1.3. Assumption of Certain Liabilities. On the terms and subject to the conditions set forth in this Agreement, Buyer shall assume as of the Effective Time and agree to pay only the following (collectively, the "Assumed Liabilities"):

- (a) All unpaid and partially-paid purchase orders listed on Schedule 1.3(a);
- (b) All unpaid or unperformed obligations and liabilities of Sellers under the Assumed Contracts arising on or after the Effective Time; and
- (c) All obligations arising out of Section 1.9.

1.4. Excluded Liabilities. Except for the Assumed Liabilities, Buyer will not assume or otherwise be responsible for any liabilities or obligations of Sellers (the "Excluded Liabilities").

1.5. Customer Claims. Sellers shall be responsible for Customer claims, including, without limitation, returns, defective Products, credits and year-end rebates (collectively, "Customer Claims"), relating to Products sold prior to the Effective Time and all such returns shall be applied to reduce the Deemed Business A/R dollar for dollar. Buyer shall be responsible for Customer Claims relating to Products sold on or after the Effective Time.

1.6. Purchase Price. As the full consideration for the Purchased Assets and the Business, Buyer shall pay and, if applicable, issue, to Sellers the following (collectively, the "Purchase Price"):

REDACTED

REDACTED

REDACTED

1.9. Prorations. The following expenses and obligations shall be prorated as of the Effective Time, with Sellers being responsible for that portion relating to the period prior

thereto and Buyer being responsible for that portion relating to the period on or after the Effective Time:

(a) all excise and property taxes (other than sales and use taxes, if any, arising out of the transactions contemplated herein) pertaining to the Purchased Assets or the Business shall be prorated on the basis of the number of days of the relevant tax year or period which have elapsed through the Effective Time determined without reference to any change of ownership occasioned by the consummation of the transactions contemplated herein; and

(b) all charges for utilities (including without limitation, electricity, fuel, water, sanitation and garbage disposal) and other services and goods furnished to, or in connection with, the ordinary course operations of the Business shall be prorated on the basis of the number of days of the relevant time period which have elapsed through the Effective Time.

The net amount of all such prorations shall be settled and paid at the Closing to the extent then ascertainable and mutually agreed upon by Buyer and Sellers, and, to the extent not then ascertainable or mutually agreed upon by Buyer and Sellers at the Closing, finally settled and paid as soon as practicable but in any event not later than: (i) ninety (90) calendar days after the Closing Date with respect to clause (b) above; and (ii) the first (1<sup>st</sup>) anniversary of the Closing Date with respect to clause (a) above.

In addition to the foregoing, Buyer shall reimburse each Seller for any and all costs and expenses incurred by such Seller in connection with the management and operation of the Business from and after the Effective Time, including, without limitation, the following:

(a) any and all purchase order payments that such Seller made in the ordinary course of business from and after the Effective Time in connection with the Business;

(b) any and all rent, obligations and other liabilities arising out of, in connection with or relating to the Manhattan Office Lease from and after the Effective Date; and

(c) any and all compensation and benefits expenses that such Seller incurred and paid for work performed in the ordinary course of business on or after the Effective Time with respect to the New Buyer Employees.

For the avoidance of doubt, Buyer shall have no obligation to reimburse Sellers for costs and expenses incurred by any Seller in connection with such Seller effecting the transactions contemplated by this Agreement (e.g., personnel costs associated with splitting GMI's databases (but subject to Section 4.7(b))). Within thirty (30) calendar days after the Closing Date, Sellers shall provide Buyer with one or more invoices listing all such reimbursable costs and expenses and Buyer shall pay such invoices in full and in immediately available funds within five (5) calendar days after receipt thereof.

1.10. Closing Date. The completion of the purchase of the Purchased Assets shall be on December 1, 2008 unless such date is extended or shortened as may be agreed upon by Buyer and Sellers after the conditions set forth in ARTICLE V and ARTICLE VI have been satisfied, at the Manhattan Office, or at such other place or at such other time or by such other means (such as by fax with exchange of original documents by Federal Express) as

shall be agreed upon by Buyer and Sellers (such date and time being hereafter called the "Closing" or "Closing Date"). The Closing shall be effective as of the Effective Time.

1.11. Closing Date Deliveries.

(a) Sellers' Deliveries. On the Closing Date, each Seller shall deliver, or cause to be delivered, to Buyer the following:

(i) a duly executed copy of the bill of sale in the form of Exhibit D;

(ii) a duly executed copy of an Assignment and Assumption Agreement in the form of Exhibit E (the "Assignment and Assumption Agreement"), together with any necessary consents and estoppel letters, in order to transfer the Assumed Contracts and Assumed Liabilities to Buyer;

(iii) duly executed copies of this Agreement and each other Transaction Document to which such Seller is a party;

(iv) copies of any and all third party, governmental or regulatory consents, approvals, filings, releases, terminations, payoff letters and other similar documents required in connection with the consummation of the transactions contemplated by this Agreement and the other Transaction Documents;

(v) a good standing certificate of such Seller issued by the Delaware Secretary of State (and the Secretary of State of each state where such Seller is qualified as a foreign corporation or limited liability company) and a copy of such Seller's Certificate of Incorporation or Certificate of Formation, as applicable, certified by the Delaware Secretary of State, all dated not more than fourteen (14) Business Days prior to the Closing Date;

(vi) a Certificate of the Secretary of GMI, dated as of the Closing Date, certifying on behalf of GMI that attached thereto are true, correct and complete copies of: (1) the Certificate of Incorporation of GMI in effect on the date of such certification; (2) the Bylaws of GMI in effect on the date of such certification; and (3) the resolutions adopted by the Board of Directors and the shareholders of GMI authorizing this Agreement, the Transaction Documents and the transactions contemplated herein and therein;

(vii) a Certificate of the Secretary of MS, dated as of the Closing Date, certifying on behalf of MS that attached thereto are true, correct and complete copies of: (1) the Certificate of Incorporation of MS in effect on the date of such certification; (2) the Bylaws of MS in effect on the date of such certification; and (3) the resolutions adopted by the Board of Directors and the shareholders of MS authorizing this Agreement, the Transaction Documents and the transactions contemplated herein and therein;

(viii) a Certificate of the manager of BSC, dated as of the Closing Date, certifying on behalf of BSC that attached thereto are true, correct and complete copies of: (1) the Certificate of Formation of BSC in effect on the day of such certification; (2) the limited liability company agreement of BSC in effect on the day of such certification; and (3)



the resolutions adopted by the sole member and manager of BSC authorizing this Agreement, the Transaction Documents and the transactions contemplated herein and therein; and

(ix) all of the documents and instruments required to be delivered by Sellers pursuant to ARTICLE IV, ARTICLE V and ARTICLE VI.

(b) Buyer's Deliveries. On the Closing Date, Buyer shall deliver to Sellers:

D;

(i) a duly executed copy of the bill of sale in the form of Exhibit

(ii) One Dollar (\$1.00);

(iii) duly executed copies of this Agreement and each other Transaction Document to which Buyer is a party;

(iv) copies of any and all third party, governmental or regulatory consents, approvals, filings, releases, terminations, payoff letters and other similar documents required in connection with the consummation of the transactions contemplated by this Agreement and the other Transaction Documents;

(v) a duly executed copy of the Assignment and Assumption Agreement;

(vi) a good standing certificate of Buyer issued by the Montana Secretary of State (and the Secretary of State of each state where Buyer is qualified as a foreign limited liability company) and a copy of Buyer's Articles of Organization certified by the Montana Secretary of State, all dated not more than fourteen (14) Business Days prior to the Closing Date;

(vii) a Certificate of the manager of Buyer, dated as of the Closing Date, certifying on behalf of Buyer that attached thereto are true, correct and complete copies of: (1) the Articles of Organization of Buyer in effect on the day of such certification; (2) the limited liability company agreement of Buyer in effect on the day of such certification; and (3) the resolutions adopted by Buyer's sole member and manager authorizing this Agreement, the Transaction Documents and the transactions contemplated herein and therein; and

(viii) all of the documents and instruments required to be delivered by Buyer pursuant to ARTICLE IV, ARTICLE V and ARTICLE VI.

(c) Further Assurances. From time to time following the Closing, Seller shall execute and deliver, or cause to be executed and delivered, to Buyer such other instruments of conveyance and transfer as Buyer may reasonably request or as may be otherwise reasonably necessary to more effectively convey and transfer to, and vest in, Buyer and put Buyer in possession of, any part of the Purchased Assets, and, in the case of the contracts listed on Schedule 1.11(c) which cannot be transferred or assigned effectively without the consent of, or notice to, third parties which consent and/or notices has not been obtained or given prior to the Closing, to cooperate with Buyer at its request in endeavoring

to obtain such consent or deliver such notices promptly. The parties agree that Sellers may retain certain rights in the contracts listed on Schedule 1.11(c) when they are ultimately assigned, as further described on Schedule 1.11(c). To the extent that the parties identify other assets that are used exclusively in the Business but are not included in the definition of the Purchased Assets, the parties shall execute and deliver, or cause to be executed and delivered, instruments of conveyance and transfer, and take such other action as Buyer may reasonably request to convey and transfer such other assets to, and in, Buyer and put Buyer in possession of such other assets.

(d) Purchase Price Allocation. The Purchase Price shall be allocated among the Purchased Assets in accordance with Schedule 1.11(d) in a manner consistent with the principles set forth in Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder. The parties hereto covenant and agree that neither of them will take a position on any tax return, before any governmental or regulatory body charged with the collection of any tax, or in any judicial or administrative proceeding relating to taxes, that is in any way inconsistent with the allocations as set forth on Schedule 1.11(d). Each party shall indemnify the other for the indemnifying party's breach of this section pursuant to the principles set forth in ARTICLE VII, provided however, that it is understood that either party may subsequently adjust and/or change such allocation and initial filing position (without liability to the other party) in the event such an adjustment or change is required due to an audit and/or examination of such party's tax return by the Internal Revenue Service and/or state or local taxing authority or any final determination by any court.

## **ARTICLE II**

### **REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLERS**

As an inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, each Seller hereby represents and warrants to Buyer as follows:

2.1. Organization of Sellers. GMI and MS are corporations duly incorporated, validly existing and in good standing under the laws of the State of Delaware. BSC is a limited liability company duly formed, existing and in good standing under the laws of the State of Delaware. Each Seller is duly qualified to transact business as a foreign corporation or limited liability company, as applicable, in the State of Montana. MS is duly qualified to transact business as a foreign corporation in the State of Texas. Each Seller has full corporate power and authority to own, lease or otherwise hold and to operate and use the Purchased Assets and to carry on the Business as now conducted and presently proposed to be conducted.

2.2. Authority.

(a) Each Seller has full corporate or limited liability company, as applicable, power and authority to enter into this Agreement and each of the Transaction Documents to which it is a party, to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

(b) Each Seller's execution, delivery and performance of this Agreement and the Transaction Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, have been duly authorized and do not require any further corporate or limited liability company proceedings.

(c) This Agreement and the Transaction Documents are, and each other agreement or instrument of each Seller contemplated hereby and thereby will be, the legal, valid and binding agreement of each Seller, to the extent each is a party thereto, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar applicable laws affecting creditors' rights generally or by general equitable principles affecting the enforcement of contracts.

(d) To each Seller's Knowledge, the execution, delivery and performance of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby by Sellers, to the extent each is a party thereto, do not and shall not (a) conflict with or result in any breach of any of the terms, conditions or provisions of, (b) constitute a default under, (c) result in a violation of, (d) give any third party the right to modify, terminate or accelerate or cause the modification, termination or acceleration of, any obligation under, (e) result in the creation of a Lien upon any of the Purchased Assets, or (f) require any authorization, consent, approval, exemption or other action by or notice or declaration to, or filing with, any court or administrative or other governmental body or agency, under (i) the Certificate of Incorporation or Bylaws of GMI or MS or the Certificate of Formation or limited liability company agreement of BSC; (ii) any Assumed Contract; (iii) any material law, statute, rule or regulation to which any Seller is subject or (iv) any material judgment, order or decree to which any Seller is subject.

2.3. Taxes. Except as set forth on Schedule 2.3, to each Seller's Knowledge, Seller has timely filed (taking into account permitted extensions) its required federal, state, county and local income, excise, withholding, property, sales, use, franchise or other tax returns, declarations or reports which were required to be filed pursuant to applicable law from and after June 5, 2005. All tax returns filed by Sellers during the period commencing on June 5, 2005, and ending on the Effective Time were correct and complete in all material respects. Sellers have timely paid all taxes which have become due and payable (taking into account permitted extensions). To each Seller's Knowledge, there are no Liens for taxes upon any of the Purchased Assets other than Permitted Liens.

2.4. Leased Real Property. Schedule 2.4 sets forth a list of each lease, or similar agreement or arrangement for real property leased in connection with the Business and included as an Assumed Contract (the "Leased Real Property"). To each Seller's Knowledge, each Seller occupying such Leased Real Property has the right to quiet enjoyment of all such Leased Real Property for the full term of each such lease or similar agreement (and any renewal option) relating thereto, and the leasehold or other interest of such Seller in such Leased Real Property is not subject or subordinate to any Lien except for Permitted Liens or property taxes. To each Seller's Knowledge, all rentals due and owing have been paid by the applicable Seller and accepted by the lessor, and no Seller is in default or breach under any of such leases or agreements.

2.5. Intellectual Property. To each Seller's Knowledge, Schedule 1.1(e) describes all of registered and unregistered patents, copyrights and trademarks (including, without

limitation, applications, registrations and other filings with respect thereto) used exclusively in the conduct of the Business. To each Seller's Knowledge, no Seller has granted any license or other rights (contractual or otherwise) that would entitle any third party to copy, distribute or use any Intellectual Property in any manner. To each Seller's Knowledge, no proceeding is pending or threatened asserting the invalidity or misuse of, challenging any Seller's rights in, or otherwise opposing any rights of any Seller with respect to Intellectual Property and there is no reasonable basis for such a claim or proceeding. Except as set forth in Schedule 2.5, to each Seller's Knowledge, no proceeding is pending or threatened asserting any infringement, dilution, misappropriation, unauthorized use or copying or other violation by any Seller of the rights of any third party and there is no reasonable basis for such a claim or proceeding. To each Seller's Knowledge, no rights of such Seller with respect to Intellectual Property have been the subject of any infringement, dilution, misappropriation, unauthorized use or copying of or other violation of Seller's rights by any third party.

2.6. Title to Property. To each Seller's Knowledge, each Seller has good and marketable title to all of the Purchased Assets listed next to its name on Schedules 1.1(a) through (f), free and clear of all Liens other than the Assumed Liabilities and the Permitted Liens. Sellers' personal property located in the Manhattan Office, the Atlanta Showroom and the Las Vegas Showroom, and Sellers' personal property located in MS HQ that are listed on Schedule 1.1(h), are all of the material physical assets and material property used by Sellers exclusively for the Business.

2.7. Status of Contracts. To each Seller's Knowledge, Schedule 2.7 is a true and complete list of every contract, agreement, relationship and commitment, written or oral, to which each Seller is a party with respect to the Business, or by which it is bound with respect to the Business, requiring the annual expenditure of in excess of Twenty-Five Thousand (\$25,000) or, if less, are otherwise material to the Business, individually or in the aggregate, including, without limitation, agreements relating to the borrowing of money, mortgaging, pledging or otherwise placing a Lien other than a Permitted Lien on such Seller's assets, lending or investing funds, license or royalties, guaranties of any obligation, leasing, power of attorney, employment, severance and collective bargaining, the purchase or license (if applicable) of materials, supplies, equipment, machinery, parts, products or services and distribution of products, whether or not such contracts and agreements include items besides the Contracts (said contracts and agreements are hereinafter referred to as the "Seller Agreements"). To each Seller's Knowledge, each of the Seller Agreements constitutes a legal, valid and binding obligation of the Seller that is a party thereto and is enforceable against such Seller in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar applicable laws affecting creditors' rights generally or by general equitable principles affecting the enforcement of contracts.

2.8. Labor. Except as set forth on Schedule 2.8, for as long as the Sellers have operated the Business, each Seller (a) has been in material compliance with all then applicable laws respecting hiring, employment, termination, discrimination, wages, hours, and occupational safety and health and employment practices with respect to the Business, (b) has not received written notice that it has engaged in any unfair labor practice, and (c) has not received written notice that it has failed to withhold any amounts required by applicable law or by agreement from the wages and other payments to its employees with respect to the Business.

2.9. Compliance with Law. Except as set forth in Schedule 2.9, to each Seller's Knowledge, such Seller has complied, and is in compliance, in all material respects with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other government, governmental department, commission, board, bureau, agency or instrumentality which are applicable to the Purchased Assets, the Assumed Contracts or the Business.

2.10. Broker or Finder. No Seller, nor any party acting on its behalf, has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement. Any such fees or commissions shall be the sole responsibility of such Seller.

2.11. Accounts Receivable. Sellers' aggregate Accounts Receivables as of the Effective Time is at least Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000).

### **ARTICLE III**

#### **REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER**

As an inducement to Sellers to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer hereby represents and warrants to Sellers as follows:

3.1. Organization of Buyer; Capitalization. Buyer is a limited liability company duly formed, existing and in good standing under the laws of the State of Montana, and has full power and authority to own, lease or otherwise hold its properties and assets and to carry on its business as now conducted. Pierce is the sole manager and member of Buyer and owns his membership interests in Buyer free and clear of all Liens. All of the membership interests issued by Buyer are duly authorized, validly issued, fully paid, nonassessable and free of any preemptive rights. There are no equity interests of Buyer issued or outstanding other than Pierce's membership interests. There is no outstanding option, warrant, right, subscription, call, unsatisfied preemptive right, letter of intent, negotiation, commitment or other agreement or right of any kind to purchase or otherwise acquire from Buyer any equity interest in Buyer by any Person. There is no outstanding security of any kind convertible into equity of Buyer, and there is no outstanding contract or other agreement of Buyer or any other party to purchase, redeem or otherwise acquire any outstanding equity interests of Buyer.

3.2. Authority of Buyer. Buyer has full power and authority to enter into this Agreement and the Transaction Documents, to consummate the transactions contemplated

hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

The execution, delivery and performance of this Agreement and the Transaction Documents by Buyer, including, without limitation, the deliveries and other agreements of Buyer contemplated hereby and thereby, have been duly authorized and approved by all necessary limited liability company action. This Agreement and the Transaction Documents are, and each other agreement or instrument of Buyer contemplated hereby and thereby will be, the legal, valid and binding agreement of Buyer, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar applicable laws affecting creditors' rights generally or by general equitable principles affecting the enforcement of contracts.

The execution, delivery and performance of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby by Buyer, to the extent it is a party thereto, do not and shall not (a) conflict with or result in any breach of any of the terms, conditions or provisions of, (b) constitute a default under, (c) result in a violation of, (d) give any third party the right to modify, terminate or accelerate or cause the modification, termination or acceleration of, any obligation under, or (e) require any authorization, consent, approval, exemption or other action by or notice or declaration to, or filing with, any court or administrative or other governmental body or agency, under (i) the articles of organization or limited liability company agreement of Buyer; (ii) any law, statute, rule or regulation to which Buyer is subject or (iii) any judgment, order or decree to which Buyer is subject.

3.3. No Broker or Finder. Neither Buyer nor any party acting on its behalf has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement. Any such fees or commissions shall be the sole responsibility of Buyer.

3.4. "As-Is" Sale. Except for Sellers' covenants, representations and obligations expressly set forth herein, Buyer acknowledges and agrees that (a) Buyer has fully investigated the Business and the Purchased Assets and Buyer is acquiring the Purchased Assets in their "AS-IS" and "WHERE IS" condition and WITH ALL FAULTS, and without any representation or warranty by Sellers (except those set forth in this Agreement), and (b) no patent or latent condition affecting the Purchased Assets or any portion thereof in any way, whether or not known or discoverable or hereafter discovered, shall give rise to any right, claim or cause of action against Sellers, including for damages, rescission or contribution under any state or federal law. Buyer further expressly acknowledges and agrees that, except as specifically set forth in this Agreement, no Seller, nor any Person acting or purporting to act as agent or representative of any Seller, has made any representation, warranty, promise or statement of any kind whatsoever, express or implied, to Buyer, or to any Affiliate of Buyer, or upon which Buyer has relied or will rely in any respect regarding this Agreement, the Purchased Assets, the Transaction Documents, the Business or any matter whatsoever with respect thereto.

3.5. Sophistication. Buyer: (a) is sophisticated in transactions and investments; (b) is able, either directly or through its agents and representatives, to evaluate all of the information and due diligence documents regarding the Business and to evaluate the merits

and risks of its acquisition and operation of the Business; and (c) has carefully considered the suitability of its acquisition and operation of the Business for its particular financial and tax situation and has determined that its acquisition and operation of the Business is suitable for it. Buyer has been advised to consult with its own attorneys and other advisors concerning the legal and tax matters inherent in its acquisition and operation of the Business and has done so, to the extent it has considered the same necessary.

#### **ARTICLE IV OTHER AGREEMENTS**

4.1. Mutual Non-Competition, Non-Solicitation and Non-Disclosure Agreement. At Closing, Buyer and Sellers shall enter into a Mutual Non-Competition, Non-Solicitation and Non-Disclosure Agreement in the form attached hereto as Exhibit F.

4.2. Cross-Selling Agreement. At Closing, Buyer and MS shall enter into a Cross-Selling Agreement in the form attached hereto as Exhibit G.

4.3. Agreement for Consulting Services. At Closing, Buyer and MS shall enter into an Agreement for Consulting Services in the form attached hereto as Exhibit H.

4.4. Trademark and Copyright Assignments. At Closing, Buyer and Sellers shall enter into the Trademark Assignments and Copyright Assignments in the forms attached hereto as composite Exhibit I.

4.5. Sellers' Employees. Before the Closing and effective as of the Closing Date, Buyer shall make offers of employment to the Business' employees listed on Schedule 4.5. No specific terms and conditions of employment are guaranteed and Buyer may offer employment to the listed employees on terms and conditions that may be more or less favorable than those currently offered by each Seller for its employees. Each employee listed on Schedule 4.5 who accepts an offer of employment from Buyer ("New Buyer Employees") will be requested to resign his or her employment with the applicable Seller effective on the Closing Date, and on and as of the Closing Date, the applicable Seller will take all action necessary to effectuate the resignation of each New Buyer Employee. Each Seller shall pay its respective employees of the Business all payroll sums and any other payments due to them through the close of business on the Closing Date.

4.6. Access to Books and Records Following the Closing. Sellers may retain one copy of the records and books relating to the Business and the Purchased Assets which are delivered to Buyer, provided that Sellers may not disclose any of such records or books or the information contained therein except to those of its employees, officers, directors or representatives who have a need to know, or to its accountants or attorneys, or with the prior written consent of Buyer; provided, however, Sellers may disclose such information if required by applicable law, or a court of competent jurisdiction, or to enforce its rights and perform its obligations in this Agreement and the other Transaction Documents.

4.7. Transitional Assistance.

(a) GMI operates a Distribution Center located at 3941 Wynne Avenue, Butte, MT 59714 (the "Butte Distribution Center") which is used by Sellers in connection

with the Business and various other businesses. During the period commencing at the Effective Time and ending on the earliest of (i) December 31, 2009 or (ii) the expiration of the Butte Distribution Center Lease, GMI shall provide Buyer with access to and services at the Butte Distribution Center that are consistent with the access and services that GMI provided to the Business prior to the Effective Time. In consideration for GMI providing the above-referenced access and services to Buyer, Buyer shall pay GMI for the period set forth above, an amount equal to sixty percent (60%) of the total operating costs of the Butte Distribution Center during such period as set forth on Schedule 4.7(a) attached hereto, which amounts shall be due and payable in arrears by Buyer to GMI no later than the fifteenth (15<sup>th</sup>) calendar day after Buyer's receipt of a written summary from Sellers of the operating costs due for the previous month. The first payment under this Section 4.7(a) shall be due on December 15, 2008 (which December 15, 2008 payment shall be for the period commencing on the Effective Time and ending on November 30, 2008). GMI shall use commercially reasonable efforts to keep accurate records regarding the actual expenses that are billed to Buyer. Buyer may, upon five (5) Business Days' prior written notice to GMI and during normal business hours, inspect such records at Buyer's sole expense. No more than one (1) time during any twelve (12) month period, Buyer may, at its sole expense, audit GMI's records relating solely to the actual expenses billed to Buyer pursuant to this provision in order to confirm that the correct amounts have been billed. Buyer shall obtain insurance of such types and amounts as is customary to insure Buyer's property located at the Butte Distribution Center.

(b) MS' headquarters is located on the real property and improvements located at #1 Sterling Lane, Columbus, MT 59019 (the "MS HQ"). GMI is the owner of the MS HQ and has leased this real property and the improvements thereon to MS. MS previously provided the administrative services ("Administrative Services") and IT services ("IT Services") described in the attached Schedule 4.7(b) at the MS HQ to the Business. During the period commencing at the Effective Time and ending on the earlier of (i) ninety (90) calendar days after the Effective Time or (ii) thirty (30) calendar days after Buyer delivers written notice to MS terminating Buyer's use of the Administrative Services, MS shall provide Buyer with the Administrative Services in accordance with Schedule 4.7(b) attached hereto and Buyer shall pay MS the compensation set forth on Schedule 4.7(b) in exchange for such Administrative Services. During the period commencing at the Effective Time and ending on the earlier of (i) three hundred sixty-four (364) calendar days after the Effective Time or (ii) thirty (30) calendar days after Buyer delivers written notice to MS terminating Buyer's use of the IT Services, MS shall provide Buyer with the IT Services in accordance with Schedule 4.7(b) attached hereto and Buyer shall pay MS the compensation set forth on Schedule 4.7(b) in exchange for such IT Services. MS and Buyer will work together in good faith to enter into a mutually agreeable "Transition Services Agreement" as soon as practicable after the Closing Date, which agreement will include terms and conditions that are consistent with Schedule 4.7(b).

4.8. Payments With Respect to Purchased Assets. Each Seller shall remit to Buyer on a weekly basis all monies received by such Seller or any of its Affiliates following the Closing Date in payment for any Accounts Receivable arising from Product sales from and after the Effective Time. Buyer shall remit to Sellers on a weekly basis all monies received by Buyer or any of its Affiliates following the Closing Date in payment for any Accounts Receivable arising from Product sales prior to the Effective Time.

4.9. Change of Name; Trademarks; Tradenames. Within seven (7) calendar days following the Closing, BSC shall have changed its limited liability company name to a name other than "Big Sky Carvers", and BSC shall have delivered evidence of such name change.



to Buyer within such period. Subject to the foregoing, as soon as practicable after the Closing Date, each Seller shall eliminate the use of all of the trademarks, tradenames, service marks and service names included in the Purchased Assets, in any of their forms or spellings, on all advertising, stationery, business cards, checks, purchase orders and acknowledgments, customer agreements and other contracts and business documents; provided, however, that Sellers shall be entitled to use such trademarks, tradenames, service marks and service names to the extent reasonably necessary to wind down and liquidate BSC or to deal with Excluded Assets and/or Excluded Liabilities or collect Business A/R.

4.10. Utilities. Within seven (7) calendar days following the Closing, Buyer shall cause any and all utilities (e.g., electric, water, gas, telephone, etc.) used at the Manhattan Office to be transferred out of Sellers' respective names and into Buyer's name.

4.11. Lawsuit Participation. At Buyer's sole expense (including, without limitation, travel and accommodations to depositions and hearings), Buyer shall, and shall cause its managers, members, employees and agents, to cooperate with Sellers as Sellers may reasonably request in connection with Sellers' defense of that certain Lawsuit, including, without limitation, appearing at depositions and providing discovery materials.

4.12. Mutual Release. Effective as of the Effective Time, each Seller, on the one hand, and Buyer, on the other hand, (the "Releasing Party") hereby releases and discharges the other and each of their respective present and former shareholders, directors, officers, members, managers, affiliates, partners, employees, representatives, agents, attorneys, successors and assigns (collectively, the "Released Parties") from all known (but not unknown) claims, contentions, demands, causes of action at law or in equity, debts, liens, agreements, notes, obligations or liabilities of any nature, character or description whatsoever, which the Releasing Party may have against any Released Party by reason of any matter, event, thing or state of facts occurring, arising, done, omitted or suffered to be done on or prior to the Effective Time, other than the obligations of each Released Party arising under this Agreement or any other Transaction Documents.

4.13. Bulk Sales Laws. Buyer hereby waives compliance by Sellers with the provisions of the Bulk Sales Law of any state, and Sellers warrant and agree to pay and discharge when due all claims of creditors which could be asserted against Sellers by reason of such non-compliance to the extent that such liabilities are not specifically assumed by Buyer under this Agreement. Nothing contained herein shall estop or prevent either Buyer or Sellers from asserting as a bar or defense to any action or proceeding brought under any Bulk Sales Law that such law does not apply to the transactions contemplated herein.

4.14. Lien Releases. On or prior to Closing, GMI and MS shall cause American Capital Financial Services, Inc. to release its Liens on the Purchased Assets and GMI and MS shall deliver evidence of such Lien releases to Buyer.

4.15. Manhattan Office Lease. Within fifteen (15) calendar days after the Closing Date, Buyer shall cause the Manhattan Office Lease to be terminated and Sellers to be released from all further obligations and liabilities thereunder.

4.16. Business Data. Sellers shall use commercially reasonable efforts to: (a) facilitate Verticent granting a software license to Buyer to use a copy of the Verticent

software system that is currently used in connection with the Business; and (b) provide Buyer with a duplicate set of Business data for the period between the Effective Date and the Closing Date and Customer history for each Customer. Sellers shall provide perform the obligations under this Section 4.16 as part of the IT Services and shall be compensated for such IT Services as further discussed in Section 4.7(b). In the event Sellers engage Verticent and/or any other third party to assist with the performance of the obligations set forth in this Section 4.16, each of Sellers, on the one hand, and Buyer, on the other hand, shall be obligated to pay fifty percent (50%) of any and all fees, costs and expenses charged by such third party.

## **ARTICLE V**

### **CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER**

The obligations of Buyer under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the conditions set forth below. The waiver of any of these conditions by Buyer shall not relieve Sellers of any liability or obligation relating thereto.

5.1. Corporate and Limited Liability Company Action. GMI's and MS' Board of Directors and shareholders shall have taken all corporate action necessary to approve the transactions contemplated by this Agreement and the Transaction Documents. BSC shall have taken all limited liability company action necessary to approve the transactions contemplated by this Agreement and the Transaction Documents.

5.2. No Restraint or Litigation. No action, suit, investigation or proceeding shall have been instituted or threatened by any third party, governmental or regulatory agency to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

5.3. Transaction Documents. Each Seller shall have executed this Agreement and each Transaction Document to which it is a party and shall have delivered this Agreement and each such Transaction Document to Buyer and each of the other parties hereto, and this Agreement and each such Transaction Document will be in full force and effect.

5.4. Other Documentation. Buyer shall have received all of the documents required to be delivered by (a) each Seller at the Closing pursuant to Section 1.11(a) hereof, (b) as contemplated in ARTICLE IV hereof, and (c) as reasonably requested by Buyer.

5.5. Proceedings. All proceedings to be taken by Sellers in connection with the consummation of the transactions contemplated hereby and all certificates, instruments and other documents required to be delivered by Sellers to effect the transactions contemplated hereby reasonably requested by Buyer shall be reasonably satisfactory in form and substance to Buyer.

## **ARTICLE VI**

### **CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS**

The obligations of each Seller under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the conditions set forth below. The waiver of

any of these conditions by Sellers shall not relieve Buyer of any liability or obligation relating thereto.

6.1. Limited Liability Company Action. Buyer shall have taken all limited liability company action necessary to approve the transactions contemplated by this Agreement and the Transaction Documents.

6.2. No Restraint or Litigation. No action, suit, investigation or proceeding shall have been instituted or threatened by any third party, governmental or regulatory agency to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

6.3. Transaction Documents. Buyer shall have executed this Agreement and each Transaction Document to which it is a party and shall have delivered this Agreement and each such Transaction Document to Sellers, and this Agreement and each such Transaction Document will be in full force and effect.

6.4. Other Documentation. Sellers shall have received all of the documents required to be delivered (a) by Buyer at the Closing pursuant to Section 1.11(b) hereof, (b) as contemplated in ARTICLE IV hereof, and (c) as reasonably requested by Sellers.

6.5. Proceedings. All proceedings to be taken by Buyer in connection with the consummation of the transactions contemplated hereby and all certificates, instruments and other documents required to be delivered by Buyer to effect the transactions contemplated hereby reasonably requested by Sellers shall be reasonably satisfactory in form and substance to Sellers.

## **ARTICLE VII** **INDEMNIFICATION**

7.1. Indemnification by Sellers. Each Seller shall indemnify and hold Buyer (together with its officers, directors, shareholders, members, managers, partners, employees, agents, attorneys, Affiliates, parents, subsidiaries, successors and assigns) (the "Buyer Indemnitees") harmless from, against or in respect of the aggregate of any and all damage, cost, fee, loss, deficiency, liability, expense (including, but not limited to, reasonable attorneys' fees, court costs and expenses), action, suit, proceedings, demand, assessment or judgment to or against any of the Buyer Indemnitees arising out of, relating to or in connection with ("Buyer Indemnifiable Damages"):

(a) any debt, obligation or liability of any Seller which is not expressly assumed by Buyer herein or in the Transaction Documents, including without limitation, the Excluded Liabilities, whether arising prior to, on or after the Effective Time; and

(b) any inaccuracy or breach by any Seller of any of its representations or warranties contained in Sections 2.1, 2.2 or 2.6 of this Agreement.

Without limiting the generality of the foregoing, with respect to the measurement of Buyer Indemnifiable Damages, Buyer shall have the right to be put in the same financial position as it would have been had each of the representatives and warranties of Sellers been

true and correct and had each of the covenants and agreements of Sellers been performed in full.

Pierce has no current actual knowledge of any facts or circumstances that would serve as a basis for a claim by Buyer or Pierce against any Seller based upon a breach of any of the Sellers' representations, warranties or covenants contained in this Agreement or in the other Transaction Documents.

7.2. Indemnification by Buyer. Buyer and Pierce shall jointly and severally indemnify and hold each Seller (together with their respective officers, directors, shareholders, members, managers, partners, employees, agents, attorneys, Affiliates, parents, subsidiaries, successors and assigns) (the "Seller Indemnitees") harmless from, against or in respect of the aggregate of any and all damage, cost, fee, loss, deficiency, liability, expense (including, but not limited to, reasonable attorneys' fees, court costs and expenses), action, suit, proceedings, demand, assessment or judgment to or against any of the Seller Indemnitees, arising out of, relating to or in connection with ("Seller Indemnifiable Damages"):

(a) any debt, obligation, liability or commitment of any Seller which is expressly assumed by Buyer herein or in the Transaction Documents, including, without limitation, the Assumed Liabilities, whether arising prior to, on or after the Effective Time;

(b) any inaccuracy, breach or violation of, or non-performance by, Buyer of any of its representations, warranties, covenants or agreements contained in this Agreement or in any document, certificate or schedule required to be furnished pursuant to this Agreement, including, without limitation, the Transaction Documents;

(c) any and all services rendered by any of the Sellers pursuant to Section 4.7;

(d) any and all rent, obligations and other liabilities arising out of, in connection with or relating to the Manhattan Office Lease from and after the Effective Date; and

(e) the operation of the Business from and after the Effective Time.

Without limiting the generality of the foregoing, with respect to the measurement of Seller Indemnifiable Damages, each Seller shall have the right to be put in the same financial position as it would have been had each of the representatives and warranties of Buyer been true and correct and had each of the covenants and agreements of Buyer been performed in full.

The right to indemnification will not be affected by any investigation conducted with respect to, or any knowledge acquired or capable of being acquired by Sellers at any time, whether before or after execution or delivery of this Agreement or the Transaction Documents or the Closing Date with respect to the accuracies or inaccuracy of or compliance with any such representation, warranty, covenant or obligation. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or obligation, will not affect the right to indemnification,

payment of damages, or other remedy based on such representations, warranties, covenants, and obligations.

7.3. Notice of Claims. If any third party claim is made against a party which, if sustained, would give rise to an obligation to indemnify and hold harmless another party hereunder, the party seeking indemnification (the "Claiming Party") shall promptly (but no later than ten (10) Business Days from receipt, or sooner if urgent action is required by the claim) cause notice of the claim to be delivered to the other party (the "Non-Claiming Party") and shall afford the Non-Claiming Party and its counsel, at its sole expense, the opportunity to defend or settle the claim (provided that the Claiming Party and its counsel may participate at their sole cost and expense). Any notice of a claim shall state specifically the representation, warranty, covenant or agreement with the alleged basis for the claim, and the amount of liability asserted against the other party by reason of the claim. If such notice and opportunity are not given, liability of the Non-Claiming Party with respect to such claim shall not be relieved, except to the extent that Claiming Party's failure to give notice shall have prejudiced the Non-Claiming Party. No third party claim may be settled or compromised without notice to and the consent of the Non-Claiming Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that if notice of a claim is given and the Non-Claiming Party receiving the notice fails to assume the defense of the claim or fails to admit in writing its liability with respect to such claim, the claim may be defended, compromised or settled by the Claiming Party without the consent of the Non-Claiming Party and the Non-Claiming Party shall remain liable under this ARTICLE VII. Notwithstanding anything contained herein to the contrary, the Claiming Party may retain control over the defense of any claim hereunder if such claim is non-monetary or is for injunctive or other equitable relief.

7.4. Limitation of Damages. The foregoing obligations described in Sections 7.1 and 7.2 shall be subject to and limited by the following principles and limitations:

(a) Deductible Basket. The Buyer Indemnitees shall have no right to recover their first Ten Thousand Dollars (\$10,000) of Buyer Indemnifiable Damages, in the aggregate, actually incurred and otherwise subject to indemnification under Section 7.1. Accordingly, the Buyer Indemnitees shall not assert a claim under Sections 7.1 unless and until the aggregate amount of all Buyer Indemnifiable Damages actually incurred by the Buyer Indemnitees otherwise subject to indemnification under Section 7.1 exceeds Ten Thousand Dollars (\$10,000). Thereafter, such Buyer Indemnitees may seek indemnification and recover all further Buyer Indemnifiable Damages actually incurred by such Buyer Indemnitees and subject to indemnification under Sections 7.1 (i.e., all such Buyer Indemnifiable Damages in excess of the first Ten Thousand Dollars (\$10,000) of such Buyer Indemnifiable Damages). Notwithstanding anything to the contrary contained herein, this Section 7.4(a) shall not apply to any claims based on Excluded Liabilities. Further, for greater clarity, any and all amounts payable by Buyer to Seller pursuant to Section 4.9 shall not be applied against or otherwise credited for purposes of satisfying the foregoing basket.

(b) Maximum Liability. The maximum aggregate liability that the Sellers may have by reason of this Agreement or the Transaction Documents to any and all Buyer Indemnitees, in the aggregate, with respect to claims for indemnification under this ARTICLE VII or under any other theory of recovery shall be Fifty Thousand Dollars

(\$50,000), including costs of defense; except, however, the foregoing limit shall not apply to any claims based on Excluded Liabilities.

(c) Survival. The expiration date by which claims for breaches of representations and warranties under this Agreement or any of the other Transaction Documents must be made (the "Expiration Date") shall be the date six (6) months after the Closing Date. No claim based upon the breach of a representation or warranty set forth in ARTICLE II or ARTICLE III may be asserted unless, before the applicable Expiration Date of such representation or warranty, notice of such claim has been given to Seller or Buyer, as applicable, from whom such indemnification is sought and such notice states that such a breach has or may have occurred and states in reasonable detail the material facts forming the basis of such claim as then known to the claiming party.

(d) Exclusive Remedy. After the Closing occurs, the rights and obligations with respect to indemnification set forth in this ARTICLE VII shall be the exclusive rights and obligations of the parties hereto and their respective Affiliates with respect to payment or recovery of monetary damages based on any theory of recovery under this Agreement or the Transaction Documents, including, without limitation, a breach of the representations and warranties contained herein; it being expressly acknowledged and agreed that either party may seek injunctive or other equitable relief before a court of competent jurisdiction.

7.5. Dispute Resolution. Any dispute, claim or controversy arising out of or relating to this Agreement or the Transaction Documents or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Gallatin County, Montana, before one (1) arbitrator who shall be a retired judge admitted to practice law in the State of Montana. The arbitration shall be administered by the American Arbitration Association (or any like organization successor thereto) pursuant to its Commercial Arbitration Rules. The arbitrator shall follow any applicable federal law and Montana state law in rendering an award. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Subject to the foregoing, for purposes of any proceeding, dispute, controversy or claim relating to this Agreement or any of the Transaction Documents (including seeking an equitable remedy), each party to this Agreement hereby submits to the exclusive personal jurisdiction of any court of competent jurisdiction in the State of Montana, and each party hereby waives its right to contest the jurisdiction or venue of any such court, whether on the grounds of inconvenience or otherwise, and each party hereby waives its right to initiate any proceeding relating to the Business or any of the Purchased Assets outside the State of Montana.

## **ARTICLE VIII** **GENERAL PROVISIONS**

8.1. Survival of Obligations. All covenants contained in this Agreement shall survive the consummation of the transactions contemplated by this Agreement until the expiration of the applicable statutes of limitations.

8.2. Confidential Nature of Information. Each party hereto agrees that it will treat in confidence all documents, materials and other information which it shall have obtained regarding any other party during the course of the negotiations leading to the consummation of the transactions contemplated hereby, the investigation provided for herein and the preparation of this Agreement and other related documents, and, in the event the transactions contemplated hereby shall not be consummated, all copies of nonpublic documents and material which have been furnished in connection therewith shall be promptly returned to the party furnishing the same, shall continue to be treated as confidential information and shall not be used for the benefit of the party who returned such confidential information.

8.3. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana irrespective of its conflicts of laws principles. Except as provided in Section 7.5, all actions brought to interpret or enforce this Agreement or any provision hereof shall be brought in the exclusive forum of the courts located in Gallatin County, Montana, and each party hereto agrees to waive any defenses of lack of personal jurisdiction, lack of venue or forum non conveniens.

8.4. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly served or delivered (i) upon actual physical delivery when delivered in person or via courier such as Federal Express, (ii) if sent by facsimile or email to the facsimile number or email address of such party set forth hereinafter, upon receipt of confirmation of the transmission thereof to that number or email address, provided that the sender thereof mails a copy of such notice, request, demand or other communication by the Business Day next succeeding the date such facsimile or email was transmitted, or (iii) if mailed, on the third (3<sup>rd</sup>) Business Day after being deposited in the United States Mail, provided it is sent by certified mail, return receipt requested, first class postage prepaid, and addressed as follows:

If to Sellers, to:

c/o Group Montana, Inc.  
#1 Sterling Lane  
Columbus, MT 59019  
Fax: 406-322-6103  
Attn: Dennis Potzman  
Email: dpotzman@MontanaSilversmiths.com

with a copy to:

Loeb & Loeb LLP  
10100 Santa Monica Blvd.  
Suite 2200  
Los Angeles, CA 90067-4120  
Fax: 310-510-6729  
Attn: Karl E. Block, Esq.  
Email: kblock@loeb.com

If to Buyer or Pierce, to:

The Yellowstone Company, LLC  
308 E Main Street  
Manhattan, MT 59741  
Fax: 406-284-4028  
Attn: Marc Pierce  
Email: mpierce@bigskycarvers.com

with a copy to:

K&L Gates LLP  
925 Fourth Ave., Suite 2900  
Seattle, WA 98101  
Fax: 206-623-7022  
Attn: Gary Kocher  
Email: gary.kocher@klgates.com

Any party hereto may from time to time, by written notice to the other parties given in the manner hereinabove set forth, designate a different address or different facsimile number or email address, which shall be substituted for the one specified above for such party.

8.5. Successors and Assigns.

(a) The rights of the parties under this Agreement shall not be assignable without the prior written consent of the non-assigning parties hereto.

(b) Subject to Section 8.5(a), this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, heirs, personal representatives and permitted assigns. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer any rights upon any Person other than the parties and their successors.

8.6. Entire Agreement; Amendments. This Agreement and the Schedules and Exhibits referred to herein and the Transaction Documents delivered pursuant hereto, contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersede all prior agreements, understandings, or intents between or among any of the parties hereto, including, without limitation, that certain Summary of Terms and Conditions for Sale of Assets of Big Sky Carvers. The parties hereto, by mutual agreement in writing, may amend, modify and supplement this Agreement.

8.7. Interpretation. Article titles and headings to sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The Exhibits and Schedules referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

8.8. Waivers. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce



each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

8.9. Expenses. All of the expenses incurred by Buyer in connection with the authorization, negotiation, preparation, execution and performance of this Agreement and other agreements referred to herein and the consummation of the transactions contemplated hereby, including, without limitation, all fees and expenses of agents, representatives, brokers, counsel and accountants for Buyer, shall be paid by Buyer. All expenses incurred by Sellers in connection with the authorization, negotiation, preparation, execution and performance of this Agreement and the other agreements referred to herein and the consummation of the transactions contemplated hereby, including without limitation, all fees and expenses of agents, representatives, brokers, counsel and accountants, shall be paid by Sellers.

8.10. Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein unless the deletion of such provision or provisions would result in such a material change as to cause completion of the transactions contemplated hereby to be unreasonable.

8.11. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement. This Agreement may be executed and delivered by facsimile or PDF signature. A facsimile or PDF signature shall be treated in all respects as having the same force and effect as an original signature.

8.12. Time of the Essence. Time is of the essence of all provisions of this Agreement and the Transaction Documents.

8.13. Specific Performance. Each party acknowledges that the Business is unique and recognizes and affirms that in the event of a breach of this Agreement by such party, money damages may be inadequate and the other party may have no adequate remedy at law. Accordingly, each party hereto shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other parties' obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive and/or other equitable relief.

8.14. No Consequential Damages. NO PARTY TO THIS AGREEMENT SHALL BE LIABLE TO ANY OTHER PARTY TO THIS AGREEMENT FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOST SAVINGS) ARISING FROM, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES. THIS LIMITATION APPLIES REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

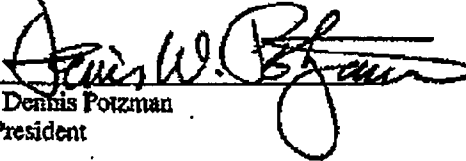
8.15 Attorneys' Fees. In the event that any dispute between or among any of the parties hereto should result in litigation or arbitration, the prevailing party in that dispute shall be entitled to recover from the other party(ies) all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

**[SIGNATURE PAGE FOLLOWS]**

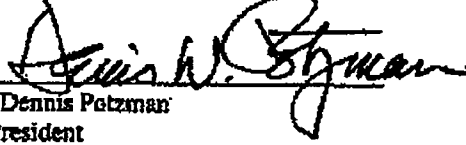
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

**SELLERS:**

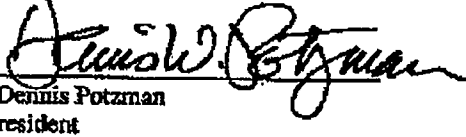
**GROUP MONTANA, INC.,**  
a Delaware corporation

By:   
Name: Dennis Potzman  
Title: President

**MONTANA SILVERSMITHS, INC.,**  
a Delaware corporation

By:   
Name: Dennis Potzman  
Title: President

**BIG SKY CARVERS, LLC,**  
a Delaware limited liability company

By:   
Name: Dennis Potzman  
Title: President

**BUYER:**

**THE YELLOWSTONE COMPANY, LLC,**  
a Montana limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PIERCE:**

\_\_\_\_\_  
Marc Pierce, an individual

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

**SELLERS:**

**GROUP MONTANA, INC.,**  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MONTANA SILVERSMITHS, INC.,**  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BIG SKY CARVERS, LLC,**  
a Delaware limited liability company

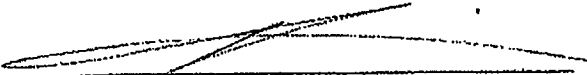
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER:**

**THE YELLOWSTONE COMPANY, LLC,**  
a Montana limited liability company

By: Marc Pierce  
Name: \_\_\_\_\_  
Title: Managing Member

**PIERCE:**

  
\_\_\_\_\_  
Marc Pierce, an individual

**Schedule 1.1(e)**

**Trademarks:**

<u>Mark</u>	<u>Registration/Application No.</u>	<u>Owner</u>
BEARFOOTS	Reg. No.2721009	BSC
BEARFOOTS (Canada)	Reg. No. TMA651692	BSC
BEARFOOTS (China)	081296-97-FD-A-CZ (pending appl.)	GMI
BIG SKY BEARS	Reg. No. 2546117	BSC
BIG SKY CABIN CANDLES	Reg. No. 3303264	GMI
BIG SKY CANINE	Reg. No. 3043437	BSC
BIG SKY CARVERS	Reg. No. 2720584	BSC
BIG SKY CARVERS (Canada)	TMA657,422	BSC
BIG SKY CARVERS (China)	081290-95-FD-A-CZ (pending appl.)	GMI
BIG SKY SILVER	Reg. No. 3341981	MS
CAMP CREEK CO.	Reg. No. 2965996	BSC
CAMP CREEK CO.	Reg. No. 3064883	BSC
KRITTERS OF ADVENTURE	Reg. No. 2704425	BSC
ROCK THE FLOCK	Application No. 77141171	GMI
MONTANA BRONZES	Reg. No. 2539380	BSC
SINGING TREE	Reg. No. 2781722	BSC

**Copyrights:**

<u>Copyright</u>	<u>Registration/Application No.</u>	<u>Owner</u>
Moose Campers	VAu750-643	GMI
Trout Cookie Jar	VA1-281-128	BSC
NASCAR Duck	VA1-323-802	BSC

**Patents:**

None.