

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
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CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Turfway Park Racing Association, Inc.		12/24/1998	CORPORATION: KENTUCKY

RECEIVING PARTY DATA	
Name:	Turfway Park, LLC
Street Address:	7500 Turfway Rd.
City:	Florence
State/Country:	KENTUCKY
Postal Code:	41022
Entity Type:	LTD LIAB JT ST CO: KENTUCKY

PROPERTY NUMBERS Total: 4		
Property Type	Number	Word Mark
Registration Number:	2109084	TURFWAY PARK
Registration Number:	2109085	THE RACE BOOK AT TURFWAY PARK
Registration Number:	2110733	THE RACE BOOK AT TURFWAY PARK
Registration Number:	2163381	TURFWAY PARK

CORRESPONDENCE DATA	
Fax Number:	(859)253-1093
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	859-231-3018
Email:	taylor@skp.com
Correspondent Name:	Mark Taylor
Address Line 1:	300 West Vine St.
Address Line 2:	Suite 2100
Address Line 4:	Lexington, KENTUCKY 40507

NAME OF SUBMITTER:	Mark Taylor
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Total Attachments: 8

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**TRADEMARK  
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# ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is made and entered into as of the \_\_\_\_\_ day of December, 1998, by and among **TURFWAY PARK RACING ASSOCIATION, INC.**, a Kentucky corporation ("Seller"), **JERRY L. CARROLL** and **JOHN R. LINDAHL, JR.** ("Shareholder" or "Shareholders"); and **TURFWAY PARK, LLC**, a Delaware limited liability company ("Purchaser").

## WITNESSETH:

**WHEREAS**, Seller is currently engaged in the business (the "Business") of operating a horse racing facility known as "Turfway Park"; and

**WHEREAS**, Shareholders own ninety-five percent (95%) of the capital stock of Seller; and

**WHEREAS**, Seller desires to sell to Purchaser, and Purchaser desires to purchase, substantially all of the assets related to the operation of the Business, all upon the terms and conditions hereafter set forth;

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### 1. CERTAIN DEFINED TERMS.

In addition to certain terms defined elsewhere in this Agreement, the following terms have the following respective meanings:

- (a) "Accounts Payable" means all accounts and notes payable and other liabilities, obligations and payables now or in the future due from Seller arising from or related in any manner to the operation of the Business prior to the Closing Date, which are of the type and character normally included as accounts payable on financial statements prepared in accordance with generally accepted accounting principles.
- (b) "Accounts Receivable" means all accounts and notes receivable and other amounts now or in the future due to Seller arising from or related in any manner to the operation of the Business prior to the Closing Date, which are of the type and character normally included as accounts receivable on financial statements prepared in accordance with generally accepted accounting principles, but excluding accounts receivable relating to the Purse Account, Future Fees, and Gallery Tickets.

- (dd) Other terms used in this Agreement, to the extent not defined in this Section 1, shall have such meanings as are ascribed to them by this Agreement or, if no meaning is ascribed, such terms shall have the ordinary and customary meanings ascribed thereto.

## 2. PURCHASE AND SALE.

A. Assets Purchased from Seller. Subject to the terms and conditions of this Agreement, Seller agrees to sell, assign, transfer, convey and deliver to Purchaser on the Closing Date, and Purchaser agrees to purchase and acquire from Seller, free and clear of all Encumbrances, the following assets of Seller relating to the Business (collectively, the "Assets"):

- (i) All real property described in Schedule 2.A.(i) hereto, together with all buildings, structures, improvements and fixtures located thereon and all of Seller's rights, title, and interest therein and all documents pertaining thereto (collectively the "Real Property").
- (ii) All furniture, fixtures, machinery and equipment used in the conduct of the Business (the "Equipment"), including, without limitation, certain licensed vehicles (the "Licensed Vehicles"), including the leasehold rights to Equipment and Licensed Vehicles that are leased, all as described in Schedule 2.A.(ii) hereto.
- (iii) All accounts receivable arising from or related to Gallery Tickets, the Purse Account and Future Fees.
- (iv) All tangible personal property owned by Seller which has been purchased for resale, use or consumption in connection with the conduct of the Business (the "Materials and Supplies").
- (v) Subject to the terms of the applicable operating agreement, Seller's twenty-four percent (24%) membership interest in Kentucky Downs, LLC, a Kentucky limited liability company which owns Kentucky Downs and Seller's right, title and interest to any loan receivable from Kentucky Downs, LLC (collectively, the "Kentucky Downs Interest").
- (vi) Seller's one hundred (100) shares of common stock (representing twenty-five percent (25%) of the issued and outstanding stock) of Kentucky Off Track Betting, Inc., a Kentucky corporation (the "KOTB Interest"), or the proceeds thereof, subject to applicable share transfer restrictions.
- (vii) All of the Seller's rights under those licenses and permits, to the extent transferable, issued by governmental authorities which are held in the name of Seller and used in the conduct of the Business (the "Permits"),

including any rights which Seller may have to receive any refunds or a return of any deposit or to enjoy the benefit of any prepayment in connection with any such Permit.

- (viii) All of Seller's rights under those contracts, leases, agreements and obligations of Seller included among the liabilities of Seller to be assumed by Purchaser, all as described in Schedule 2.A.(viii) hereto (the "Contracts"), excluding any rights which Seller may have to receive any refunds or a return of any deposit or to enjoy the benefit of any prepayment in connection with any such Contract.
- (ix) Subject to the provisions of Section 16A of this Agreement, and excluding Seller's corporate minute books, tax records, and other basic corporate documents which are not reasonably of use to Purchaser in the conduct of the Business, all data, books, papers, files and records of Seller pertaining to the operation of the Business (the "Books and Records").
- (x) The Intangibles.
- (xi) The Purse Account.
- (xii) The right to receive insurance proceeds and condemnation awards in accordance with Section 17.
- (xiii) The Seller's interest in Equibase Holding Limited Partners, L.P.
- (xiv) All other assets of Seller of any nature relating to the ownership and/or operation of the Business other than the Excluded Assets as hereinafter defined.

**B. Excluded Assets.** The parties acknowledge and agree that, notwithstanding anything herein to the contrary, the following assets (the "Excluded Assets") of Seller shall not be included among the Assets or other property to be acquired by Purchaser:

- (i) All Accounts Receivable (subject to the provisions of Sections 5.D. and 16.B).
- (ii) All cash, cash equivalents and notes receivable of Seller (excluding the Purse Account and note receivable from Kentucky Downs LLC).
- (iii) Except to the extent provided in Section 2.A.(vii) of this Agreement all of Seller's rights to receive any refund or the return of any deposit.
- (iv) All of Seller's rights under contracts and agreements which are not Contracts as described in Schedule 2.B.(iv).


respecting such policies. All of Seller's insurance policies are valid, enforceable and in full force and effect and Seller has not received any notices of premium increases other than in the ordinary course of business or cancellations, nor does Seller know of any grounds for or any consideration of any such notices or other indication, with respect to any of its insurance policies or bonds.

- P. Intangibles. Schedule 8.P. hereto contains a complete list of the material Intangibles. Seller owns or has the right to use all Intangibles, and all rights respecting the Intangibles are assignable to Purchaser without the consent of any third party. Seller is not infringing any Intellectual Property right of any third party or otherwise violating any other property rights of any third party and no claim has been made or threatened against Seller or Shareholders alleging any such violation. To the best of Seller's knowledge, there have been no violations by others of any rights of Seller or Shareholders in any of the Intangibles. All systems which are part of the Assets and/or used in the Business as to which Seller has control are Y2K compliant. Seller has no knowledge as to whether systems not within Seller's control are compliant, but has not been advised that such systems are not compliant. Seller will cooperate with Purchaser in determining whether such other systems are compliant as part of the Examinations.
- Q. Assets Used in Operation of Business. The Assets and the Excluded Assets constitute all of the material properties, contracts, licenses, and other assets presently used by Seller in connection with the operation of the Business.
- R. Brokers and Finders. No broker, finder, agent or similar intermediary has acted on Seller's behalf in connection with this Agreement or the transactions contemplated hereby, and there are no brokerage commissions, finders' fees or similar fees or commissions payable in connection therewith based on any agreement, arrangement or understanding with Seller or any action taken by Seller.
- S. Environmental Matters. Seller's ownership and operation of the Facility and Assets is and has been in compliance with all Environmental Laws other than non-compliances which do not constitute a Material Adverse Effect on the Seller, the Business or the Assets. Seller has obtained all licenses necessary or required under all applicable Environmental Laws for the ownership and operation of the Business, all such approvals are in effect, no action to revoke or modify any of such approvals is pending, and the ownership and operation of the Business and the Assets is and has been in compliance with all terms and conditions thereof. There is not now pending, or, to Seller's knowledge, threatened, any claim or

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the date first above written.

**SELLER:**

**TURFWAY PARK RACING ASSOCIATION,  
INC.,** a Kentucky corporation

By:   
Mark F. Winendinger, President

**SHAREHOLDERS:**

  
Jerry L. Carroll

\_\_\_\_\_  
John R. Lindahl, Jr.

**PURCHASER:**

**TURFWAY PARK, I.L.C.,**  
a Delaware limited liability company

By: \_\_\_\_\_  
John E. Taylor, Jr.,  
Manager

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**SELLER:**

**TURFWAY PARK RACING ASSOCIATION,  
INC.**, a Kentucky corporation

By: *Mark F. Whittinger*  
Mark F. Whittinger, President

**SHAREHOLDERS:**

Jerry L. Carroll  
*Jerry L. Carroll* S.R.  
John E. Lindahl, Jr.

**PURCHASER:**

**TURFWAY PARK, I.L.C.**,  
a Delaware limited liability company

By: \_\_\_\_\_  
John R. Taylor, Jr.,  
Manager



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

**SELLER:**

**TURFWAY PARK RACING ASSOCIATION,  
INC., a Kentucky corporation**

By: \_\_\_\_\_  
Mark F. Simendinger, President

**SHAREHOLDERS:**

\_\_\_\_\_  
Jerry L. Carroll

\_\_\_\_\_  
John R. Lindahl, Jr.

**PURCHASER:**

**TURFWAY PARK, LLC,  
a Delaware limited liability company**

By: \_\_\_\_\_  
John R. Taylor, Jr.,  
Manager

## **SCHEDULE 8.P**

### **Intangibles**

1. **Service Mark: Turfway Park and design; U.S.P.T.O. Reg. No. 2,163,381 (copy attached).**
2. **Service Mark: "Turfway Park"; U.S.P.T.O. Reg. No. 2,109,084 (copy attached).**
3. **Service Mark: "The Race Book at Turfway Park"; U.S.P.T.O. Reg. No. 2,109,085 (copy attached).**
4. **Service Mark: The Race Book at Turfway Park and design; U.S.P.T.O. Reg. No. 2,110,733 (copy attached).**
5. **Great Plains Dynamics - general ledger software.**
6. **Tote Download Program, currently being developed.**
7. **Miscellaneous office software.**
8. **"Kentucky Cup" and miscellaneous other race names - not registered.**