



**Melco International Development Limited**

*(Incorporated in Hong Kong with limited liability)*

Website: <http://www.melco-group.com>

(Stock Code: 200)

**OVERSEAS REGULATORY ANNOUNCEMENT**

*(This overseas regulatory announcement is issued pursuant to Rule 13.09(2) of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited)*

**Please refer to the attached Form 8-K filed by Elixir Gaming Technologies, Inc. (“EGT”), a company within the group of Melco International Development Limited having its shares listed on the American Stock Exchange, with the United States Securities and Exchange Commission in relation to the sale of 16,000,000 warrants of EGT by Elixir Group Limited, a wholly-owned subsidiary of the Company, to certain investors pursuant to the warrant purchase agreement dated 11 December 2007.**

Dated this 12th day of December, 2007

*As at the date of this announcement, the board of directors of Melco International Development Limited comprises three Executive Directors, namely Mr. Ho, Lawrence Yau Lung (Chairman and Chief Executive Officer), Mr. Tsui Che Yin, Frank and Mr. Chung Yuk Man, Clarence (Chief Operating Officer); one Non-executive Director, namely Mr. Ng Ching Wo; and three Independent Non-executive Directors, namely Sir Roger Lobo, Dr. Lo Ka Shui and Mr. Sham Sui Leung, Daniel.*

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K  
CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

December 11, 2007

**ELIXIR GAMING TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

Nevada

001-32161

91-1696010

(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

(I.R.S. Employer  
Identification No.)

1120 Town Center Dr, Suite 260, Las Vegas,  
Nevada

89144

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

702-733-7197

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### **Item 1.01 Entry into a Material Definitive Agreement.**

On December 11, 2007, Elixir Group Ltd, the controlling shareholder of Elixir Gaming Technologies, Inc. (the "Company"), entered into a warrant purchase agreement with certain accredited investors pursuant to which Elixir Group has agreed to sell, and the investors' have agreed to purchase, warrants to purchase 16,000,000 shares of common stock of the Company at an exercise price of \$2.65 per share. The Company had issued the warrants to Elixir Group pursuant to that certain securities purchase agreement dated October 11, 2006 between the Company and Elixir Group and that certain securities purchase and product participation agreement dated June 12, 2007 between the Company and Elixir Group. Pursuant to the warrant purchase agreement, the investors are required to exercise the purchased warrants at the closing of the purchase, which is expected to occur within the next few days. The Company will receive from the exercise of the warrants gross proceeds of \$42,400,000. Elixir Group sold the warrants to the investors at the sale price of \$0.86 per warrant, for a total transaction cost to the investors of \$3.51 per share of Company common stock.

The Company was also a party to the warrant purchase agreement for purposes of providing to the investors customary representations, warranties, and indemnities. The Company also entered into a registration rights agreement with the investors. Pursuant to the terms of the registration rights agreement, the Company agreed to cause a resale registration statement covering the shares to be filed within 30 days after closing. The registration rights agreement also provides that the Company must pay penalties if it fails to timely complete and maintain the registration of the resale by the investors. ThinkEquity Partners LLC acted as placement agent for the private placement.

The transaction is further described in the press release issued by the Company on December 12, 2007, a copy of which is filed herewith as Exhibit 99.1.

### **Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

10.1 Warrant Purchase Agreement by and among, Elixir Group Ltd, the Company and the purchasers identified on the signature pages thereto, dated as of December 11, 2007.

10.2 Registration Rights Agreement by and among the Company and the purchasers identified on the signature pages thereto, dated as of December 11, 2007.

99.1 Press release dated December 12, 2007.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ELIXIR GAMING TECHNOLOGIES, INC.

*December 11, 2007*

By: */s/ David Reberger*

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*Name: David Reberger*

*Title: Chief Financial Officer*

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## Exhibit Index

<b>Exhibit No.</b>	<b>Description</b>
10.1	Warrant Purchase Agreement
10.2	Registration Rights Agreement
99.1	Press Release

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## WARRANT PURCHASE AGREEMENT

This Warrant Purchase Agreement (this "Agreement") is dated as of December 10, 2007, among Elixir Gaming Technologies, Inc., a Nevada corporation (the "Company"), Elixir Group Limited, a Hong Kong corporation ("Elixir Group") and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser," and collectively, the "Purchasers").

### R E C I T A L S

WHEREAS, the Company has issued to Elixir Group certain warrants to purchase shares of the Company's common stock, at an exercise price of \$2.65 per share, pursuant to that certain Securities Purchase Agreement dated October 11, 2006 between the Company and Elixir Group ("Securities Agreement") and Securities Purchase and Product Participation Agreement dated June 12, 2007 between the Company and Elixir Group ("Participation Agreement").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(1) of the Securities Act of 1933, as amended (the "Securities Act"), Elixir Group desires to transfer and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from Elixir Group, warrants to purchase shares of the Company's common stock as more fully described in this Agreement.

WHEREAS, Elixir Group wishes to transfer and sell the warrants hereunder subject to the immediate exercise of the warrants pursuant to their terms.

### A G R E E M E N T

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Elixir Group, the Company and each Purchaser hereby agree as follows:

#### ARTICLE I.

#### DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings indicated in this Section 1.1:

"Action" shall have the meaning ascribed to such term in Section 3.2(j).

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 144 under the Securities Act. With respect to a Purchaser, any investment fund or managed account that is managed on a discretionary basis by the same investment manager as such Purchaser will be deemed to be an Affiliate of such Purchaser.

"Buy-In" shall have the meaning ascribed to such term in Section 4.1(f).

"Buy-In Price" shall have the meaning ascribed to such term in Section 4.1(f).

"Business Day" means any day except Saturday, Sunday and any day which shall be a federal legal holiday in the United States.

"Closing" means the Closing of the sale and exercise of the Warrants pursuant to Sections 2.1 and 2.2.

"Closing Date" means the Business Day when all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the Warrant Subscription Amount and Warrant Exercise Amount, (ii) Elixir Group's obligation to deliver the applicable Warrant Assignments, and (iii) the Company's obligations to deliver the applicable Warrants and Warrant Shares have been satisfied or waived.

"Commission" means the Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value \$0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed into.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Contingent Obligation" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

"Deadline Date" shall have the meaning ascribed to such term in Section 4.1(f).

"Disclosure Schedules" means the Disclosure Schedules of the Company delivered in connection with the Closing.

"Effective Date" means the date that the initial Registration Statement filed by the Company pursuant to the Registration Rights Agreement is first declared effective by the Commission.

"Escrow Agreement" shall mean that certain escrow agreement, in the form of Exhibit A attached hereto, to be entered into between the Company, Elixir Group, the Placement Agent and Lowenstein Sandler PC, as escrow agent

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Indebtedness" of any Person means, without duplication (a) all indebtedness for borrowed money, (b) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business), (c) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (f) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (g) all indebtedness referred to in clauses (a) through (f) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and

contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (h) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above.

"Intellectual Property" shall have the meaning ascribed to such term in Section 3.2(o)(i).

"Liens" means a lien, charge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.2(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.2(m).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Placement Agent" means ThinkEquity Partners, LLC.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Registration Rights Agreement" means the Registration Rights Agreement, dated the date hereof, among the Company and the Purchasers, in the form of Exhibit B attached hereto.

"Registration Statement" means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale by the Purchasers of the Shares.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.2(e).

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"Securities" means the Warrants and the Warrant Shares.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.2(h).

"Short Sales" shall include all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"Subsidiary" means any subsidiary of the Company as set forth on Schedule 3.2(a).

"Trading Day" means (i) a day on which the Common Stock is listed or quoted for trading on its primary Trading Market, or (ii) if the Common Stock is not quoted on any Trading Market, a day on which the Common Stock is quoted for trading on the principal securities exchange or securities market on which the Common Stock is then traded; provided that in the event the Common Stock is not listed or quoted for trading as set forth in (i) and (ii) hereof, then Trading Day shall mean "Business Day."

"Trading Market" means the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the American Stock Exchange, the New York Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market, or the NASDAQ Capital Market.



"Transaction Documents" means this Agreement, the Warrant Assignments and the Registration Rights Agreement executed in connection with the transactions contemplated hereunder.

"Warrants" means the Common Stock purchase warrants, substantially in the form of Exhibit C attached hereto, presently owned by Elixir Group and to be sold to the Purchasers at the Closing, pursuant to which the holders have the right to purchase up to 16,000,000 shares of Common Stock, at an exercise price of \$2.65 per share.

"Warrant Assignment" means the assignment form attached to the Warrants duly executed by Elixir Group for purposes of formally assigning the Warrants to the Purchasers hereunder.

"Warrant Exercise Amount" means, as to each Purchaser, the aggregate amount to be paid for Warrant Shares purchased hereunder as specified below such Purchaser's name on the signature page of this Agreement and next to the heading "Warrant Exercise Amount," in United States Dollars and in immediately available funds.

"Warrant Shares" means the shares of Common Stock underlying the Warrants issuable upon exercise of the Warrants.

"Warrant Subscription Amount" means, as to each Purchaser, the aggregate amount to be paid for the Warrants purchased hereunder as specified below such Purchaser's name on the signature page of this Agreement and next to the heading "Warrant Subscription Amount," in United States Dollars and in immediately available funds.

## ARTICLE II.

### PURCHASE AND EXERCISE OF THE WARRANTS

2.1 Purchase and Sale of Warrants. Upon the terms and subject to the conditions set forth herein, Elixir Group agrees to sell, and each Purchaser agrees to purchase, severally and not jointly, the number of Warrants set forth on each respective Purchaser's signature page attached hereto, for the Warrant Subscription Amount set forth thereon, based on the purchase price of \$0.86 per warrant. On the Closing Date (the "Closing Date"), each Purchaser shall deliver to Elixir Group, via wire transfer or a certified check, immediately available funds equal to their Warrant Subscription Amount, and Elixir Group shall deliver to each Purchaser their respective Warrants, along with a duly executed Warrant Assignment, to be transferred at the Closing (the "Closing").

2.2 Exercise of Warrants. Subject to the terms and conditions set forth in this Agreement, at the Closing each Purchaser hereby agrees to exercise in full all of the Warrants purchased under this Agreement and thereby purchase the number of Warrant Shares set forth on such Purchaser's signature page attached hereto. On the Closing Date, each Purchaser shall deliver to the Company, via wire transfer or a certified check, immediately available funds equal to their Warrant Exercise Amount, based on the exercise price of \$2.65 per Warrant Share, and the Company shall deliver to each Purchaser their respective Warrant Shares to be issued at the Closing.

2.3 Closing. Upon satisfaction of the conditions set forth in Sections 2.4 and 2.5, the Closing shall occur at the offices of Greenberg Traurig, LLP, 3161 Michelson Drive, Suite 1000, Irvine, California 92612, or such other location as the parties shall mutually agree.

#### 2.4 Deliveries.

(a) On or prior to the Closing Date, Elixir Group shall deliver or cause to be delivered to each Purchaser the following:

(i) this Agreement duly executed by Elixir Group; and

(ii) one or more warrant certificates evidencing the Warrants purchased by each Purchaser hereunder, along a Warrant Assignment duly executed by Elixir Group.

(b) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) one or more stock certificates evidencing that number of Warrant Shares purchased by each Purchaser hereunder, registered in the name of such Purchaser;

(iii) the Registration Rights Agreement duly executed by the Company;

(iv) an opinion of Greenberg Traurig, LLP, dated as of the Closing Date, in substantially the form attached hereto as Exhibit D; and

(v) a certificate, in substantially the form attached hereto as Exhibit E, executed by the Secretary of the Company and dated as of the Closing Date, as to (i) the resolutions consistent with Section 3.2(c) as adopted by the Company's Board of Directors, and (ii) the Articles of Incorporation and Bylaws of the Company, each as amended to date and in effect at the Closing.

(c) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered the following:

(i) To Elixir Group and the Company, this Agreement duly executed by such Purchaser;

(ii) To Elixir Group, such Purchaser's Warrant Subscription Amount by wire transfer or certified check to the escrow account as set forth in the Escrow Agreement, (which wire instructions are set forth in Section 8 of the Escrow Agreement);

(iii) to the Company, such Purchaser's Warrant Exercise Amount by wire transfer or certified check to the escrow account as set forth in the Escrow Agreement (which wire instructions are set forth in Section 8 of the Escrow Agreement); and

(iv) the Registration Rights Agreement duly executed by such Purchaser.

## 2.5 Closing Conditions.

(a) The obligations of Elixir Group and the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the representations and warranties of the Purchasers shall be true and correct in all material respects (except for those representations and warranties that are qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall remain true and correct as of such specific date);

(ii) all obligations, covenants and agreements of the Purchasers required to be performed at or prior to the Closing Date with respect to the performance of this Agreement and matters contemplated hereby shall have been performed;

(iii) the delivery by the Purchasers of the items set forth in Section 2.4(c) of this Agreement;

(iv) the Company shall have obtained all governmental, regulatory or third party consents and approvals necessary for the sale of the Warrants and the Warrant Shares;

(v) no statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents;

(vi) since the date of execution of this Agreement, no event or series of events shall have occurred that resulted, or could reasonably be expected to result, in a Material Adverse Effect; and

(vii) trading in the Common Stock shall not have been suspended by the Commission or any Trading Market (except for any suspensions of trading of not more than one trading day solely to permit dissemination of material information regarding the Company) at any time since the date of execution of this Agreement, and the Common Stock shall have been at all times since such date listed for trading on a Trading Market.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the representations and warranties of Elixir Group and the Company shall be true and correct in all material respects (except for those representations and warranties that are qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date, which shall remain true and correct as of such specific date);

(ii) all obligations, covenants and agreements of Elixir Group and the Company required to be performed at or prior to the Closing Date with respect to the performance of this Agreement and matters contemplated hereby shall have been performed;

(iii) the delivery by Elixir Group and the Company of the items set forth in Sections 2.4(a) and (b) of this Agreement;

(iv) Elixir Group and the Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the sale of the Warrants and the Warrant Shares;

(v) no statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents;

(vi) since the date of execution of this Agreement, no event or series of events shall have occurred that resulted, or could reasonably be expected to result, in a Material Adverse Effect; and

(vii) trading in the Common Stock shall not have been suspended by the Commission or any Trading Market (except for any suspensions of trading of not more than one trading day solely to permit dissemination of material information regarding the Company) at any time since the date of execution of this Agreement, and the Common Stock shall have been at all times since such date listed for trading on a Trading Market.

### ARTICLE III.

#### REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Elixir Group. Elixir Group hereby makes the representations and warranties set forth below to each Purchaser:

(a) Organization and Qualification. Elixir Group is duly incorporated, validly existing and in good standing under the laws of Hong Kong, with the requisite power and authority to own and use its properties and assets and

to carry on its business as currently conducted. Elixir Group is not in violation or default of any of the provisions of its memorandum or articles of association or other organizational or charter documents.

(b) Authorization; Enforcement. Elixir Group has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and the Warrant Assignment and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of this Agreement and the Warrant Assignment by Elixir Group and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of Elixir Group and no further action is required by Elixir Group, its Board of Directors or its stockholders in connection therewith. This Agreement and the Warrant Assignments have been (or upon delivery will have been) duly executed by Elixir Group and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of Elixir Group enforceable against Elixir Group in accordance with its terms except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law and principles of public policy.

(c) No Conflicts. The execution, delivery and performance of the this Agreement and the Warrant Assignments by Elixir Group, the transfer and sale of the Warrants and the consummation by Elixir Group of the other transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of Elixir Group's memorandum or articles of association or other organizational or charter documents, or (ii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which Elixir Group is subject (including federal and state securities laws and regulations), or by which any property or asset of Elixir Group is bound or affected; except in the case of each of clause (ii), such as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(d) Filings, Consents and Approvals. Elixir Group is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by Elixir Group of this Agreement and the Warrant Assignments.

(e) Transfer of Warrants. Elixir Group is the record and sole beneficial owner of the Warrants and, when sold and paid for in accordance with this Agreement, Elixir Group shall transfer to the Purchasers all of Elixir Group's right, title and interest in and to the Warrants and the Warrant Shares, free and clear of all Liens other than restrictions on transfer provided for in the Securities Agreement, the Participation Agreement and the Warrants.

(f) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of Elixir Group, threatened against or affecting Elixir Group, the Company or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which materially adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents, the Warrants or the Warrant Shares.

(g) Certain Fees. Except for fees and expenses that may be payable to ThinkEquity Partners, LLC, no brokerage or finder's fees or commissions are or will be payable by Elixir Group to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents as a result of any action taken by Elixir Group or its Affiliates.

(h) Private Placement. Subject to the accuracy of the Purchasers representations and warranties set forth in subparts (b), (c), (d), (g) and (h) of Section 3.3, the offer and sale of the Warrants by Elixir Group to the

Purchasers as contemplated hereby constitute transactions exempt from the registration requirements of Section 5 of the Securities Act.

(i) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in subparts (b), (c), (d), (g) and (h) of Section 3.3, neither Elixir Group, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Warrants to be integrated with prior offerings by Elixir Group in violation of the Securities Act or any applicable shareholder approval provisions of any Trading Market on which any of the securities of Elixir Group are listed or designated.

(j) No General Solicitation. Neither Elixir Group nor any person acting on behalf of Elixir Group has offered or sold any of the Warrants by any form of general solicitation or general advertising. Elixir Group has offered the Warrants for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(k) Manipulation of Price. Elixir Group has not, and to its knowledge no one acting on its behalf has taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Warrants or the resale of any of the Warrant Shares.

(l) Material, Non-Public Information. Elixir Group confirms that neither it nor, to its knowledge after due inquiry, any of its officers or directors nor any other Person acting on its or their behalf has provided, and it has not authorized the Placement Agent to provide, any Purchaser or its respective agents or counsel with any information that it believes constitutes or could reasonably be expected to constitute material, non-public information concerning the Company except insofar as the existence, provisions and terms of the Transaction Documents and the proposed transactions hereunder may constitute such information, all of which will be disclosed by the Company in the press release and Current Report on Form 8-K as contemplated by Section 4.4 hereof. Elixir Group understands and confirms that the Purchasers will rely on the foregoing representations in effecting transactions in securities of the Company.

(m) Acknowledgment Regarding Purchasers' Purchase of Securities. Elixir Group acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby. Elixir Group further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of Elixir Group (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Warrants.

(n) No Additional Agreements. Elixir Group does not have any agreement or understanding with any Purchaser with respect to the transactions contemplated by the Transaction Documents other than as specified in the Transaction Documents.

3.2 Representations and Warranties of the Company. Except as set forth under the corresponding section of the disclosure schedules delivered to the Purchasers concurrently herewith (the "Disclosure Schedules"), which Disclosure Schedules shall be deemed a part hereof, the Company hereby makes the representations and warranties set forth below to each Purchaser:

(a) Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth on Schedule 3.2 (a). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly

incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (as applicable), with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation or default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the business, properties, assets, operations, prospects, results of operations or financial condition of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by each of the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of the Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, its Board of Directors or its stockholders in connection therewith. Each Transaction Document has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law and principles of public policy.

(d) No Conflicts. The execution, delivery and performance of the Transaction Documents by the Company, the issuance and sale of the Warrant Shares and the consummation by the Company of the other transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than (i) filings required pursuant to Section 4.4 of this Agreement, (ii) the filing with the Commission of the Registration Statement, and (iii) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws (collectively, the "Required Approvals").

(f) Status of Warrants; Issuance of the Warrant Shares. The Warrants have been validly issued and are fully paid and nonassessable and free and clear of all Liens other than restrictions on transfer provided for in the Securities Agreement, the Participation Agreement and the Warrants. The Warrants are assignable by Elixir Group and are fully vested and immediately exercisable in accordance with their terms. The Company hereby consents to the assignment and sale of the Warrants to the Purchasers, and their exercise, pursuant to this Agreement. The Warrant Shares are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Company has reserved from its authorized capital stock the Warrant Shares issuable pursuant to the Warrants and this Agreement.

(g) Capitalization. The capitalization of the Company is as set forth on Schedule 3.2(g). No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Warrant Shares or as set forth on Schedule 3.2(g): (i) there are no outstanding options, warrants, script rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents; (ii) there are no outstanding debt securities, notes, credit agreements, credit facilities or other agreements, documents or instruments evidencing Indebtedness of the Company or any of its Subsidiaries or by which the Company or any of its Subsidiaries is or may become bound; (iii) there are no loans or obligations of the Company or any of its Subsidiaries to officers, directors, stockholders or employees of the Company or any of its Subsidiaries other than for payment of salary for services rendered and for bonus payments, reimbursement for reasonable expenses incurred on behalf of the Company or for other standard employee benefits made generally available to all employees; (iv) there are no financing statements securing obligations in any material amounts, either singly or in the aggregate, filed in connection with the Company or any of its Subsidiaries; (v) there are no outstanding shares or instruments of the Company or any of its Subsidiaries which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any of its Subsidiaries is or may become bound to redeem a security of the Company or any of its Subsidiaries. The sale and exercise of the Warrants will not obligate the Company to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. All of the outstanding shares of capital stock of the Company are validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. Except as set forth on Schedule 3.2(g), there are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by it under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the period commencing on January 1, 2006 through the date hereof (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the Commission promulgated thereunder, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports complied in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally

accepted accounting principles applied on a consistent basis during the periods involved (“GAAP”), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest financial statements included within the SEC Reports, (i) there has been no event, occurrence or development that has had or that could reasonably be expected by the Company to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company’s financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information.

(j) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an “Action”) which materially adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Warrant Shares. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No material labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company which could reasonably be expected to result in a Material Adverse Effect. None of the Company’s or its Subsidiaries’ employees is a member of a union that relates to such employee’s relationship with the Company, and neither the Company or any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. No executive officer, to the knowledge of the Company, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Neither the Company nor any Subsidiary (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any order of any court, arbitrator or governmental body, or (iii) is or has been in violation of any statute, rule or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws applicable to its business and all such laws that affect the environment, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and



permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not have or reasonably be expected to result in a Material Adverse Effect (“Material Permits”), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(n) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them that is material to the business of the Company and the Subsidiaries and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and Liens for the payment of federal, state or other taxes, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(o) Patents and Trademarks.

(i) The Company or its Subsidiaries have exclusive ownership or a valid license to use all patent, copyright, trade secret, trademark or other proprietary rights that are used in the business of the Company as presently conducted and are material to the Company and its Subsidiaries taken as a whole (collectively, “Intellectual Property”). All of such material patents, registered trademarks and registered copyrights have been duly registered in, filed in or issued by the United States Patent and Trademark Office, the United States Register of Copyrights or the corresponding offices of other jurisdictions and, to the knowledge of the Company, have been maintained and renewed in accordance with all applicable provisions of law and administrative regulations in the United States and all such jurisdictions.

(ii) All material licenses or other material agreements under which (A) the Company or any Subsidiary is granted rights in Intellectual Property and (B) the Company or any Subsidiary has granted rights to others in Intellectual Property owned or licensed by the Company or any Subsidiary, are in full force and effect and there is no material default by the Company or any Subsidiary thereto.

(iii) No proceedings have been instituted or are pending which challenge in a material manner the rights of the Company or any Subsidiary in respect to the Company or any Subsidiary’s right to the use of the Intellectual Property. The Company and each Subsidiary has the right to use, free and clear of material claims or rights of other persons, all of its customer lists, designs, computer software, systems, data compilations, and other information that are required for its products or its business as presently conducted.

(iv) The Company believes it and each Subsidiary has taken such reasonable steps as are required in accordance with sound business practice and business judgment to establish and preserve its ownership of all material copyright, trade secret and other proprietary rights with respect to its products and technology.

(v) To the knowledge of the Company, the present business, activities and products of the Company and each Subsidiary do not infringe any intellectual property of any other person, except where such infringement would not have a Material Adverse Effect. No material proceeding charging the Company or any Subsidiary with infringement of any adversely held Intellectual Property has been filed. The Company has not received or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interests of the Company or any Subsidiary, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, singly or in the aggregate, would result in a Material Adverse Effect. To the Company’s knowledge, there exists no third party unexpired patent or patent application which includes claims that would be infringed by the Company or otherwise have a Material Adverse Effect. To the knowledge of the Company, the Company is not making unauthorized use of any material confidential information or trade

secrets of any third party. To the Company's knowledge, the activities of the Company or any Subsidiary or any employee on behalf of the Company or any Subsidiary do not violate any material agreements or arrangements known to the Company which any such employees have with other persons, if any.

(p) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage at least equal to the aggregate Subscription Amount. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(q) Transactions With Affiliates and Employees. Except as set forth in the SEC Reports, none of the officers or directors of the Company and, to the knowledge of the Company, none of the employees of the Company is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner, in each case in excess of \$60,000 other than (i) for payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) for other employee benefits, including stock option agreements under any stock option plan of the Company.

(r) Sarbanes-Oxley; Internal Accounting Controls. The Company is in material compliance with all provisions of the Sarbanes-Oxley Act of 2002 which are applicable to it as of the Closing Date. The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that are effective in ensuring that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC, including, without limitation, controls and procedures designed in to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure. The Company and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. Except as set forth in the SEC Reports, during the 12 months prior to the date hereof neither the Company nor any of its Subsidiaries have received any notice or correspondence from any accountant relating to any potential material weakness in any part of the system of internal accounting controls of the Company or any of its Subsidiaries.

(s) Certain Fees. Except for fees and expenses that may be payable to ThinkEquity Partners, LLC, no brokerage or finder's fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents as a result of any action taken by the Company or its Affiliates.

(t) Private Placement. Subject to the accuracy of the Purchasers representations and warranties set forth in subparts (b), (c), (d), (g) and (h) of Section 3.3, the offer and sale of the Shares by the Company to the

Purchasers as contemplated hereby constitute transactions exempt from the registration requirements of Section 5 of the Securities Act. The issuance and sale of the Warrant Shares hereunder does not contravene the rules and regulations of the Trading Market.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Warrant Shares, will not be or be an Affiliate of, an “investment company” within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become subject to the Investment Company Act of 1940.

(v) Registration Rights. Other than each of the Purchasers and except as set forth on Schedule 3.2(v), no Person has any right to cause the Company to effect the registration under the Securities Act of any securities of the Company. The Company is eligible for use of the Registration Statement on Form S-3 to register the Warrant Shares for resale by the Purchasers.

(w) Listing and Maintenance Requirements. The Company’s Common Stock is registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements.

(x) Disclosure. All disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company, its business and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, with respect to the representations and warranties made herein are true and correct with respect to such representations and warranties and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(y) No Integrated Offering. Assuming the accuracy of the Purchasers’ representations and warranties set forth in subparts (b), (c), (d), (g) and (h) of Section 3.3, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Warrant Shares to be integrated with prior offerings by the Company in violation of the Securities Act or any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(z) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and each Subsidiary has filed all necessary federal, state and foreign income and franchise tax returns and has paid or accrued all taxes shown as due thereon, and the Company has no knowledge of a tax deficiency which has been asserted or threatened against the Company or any Subsidiary.

(aa) No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Shares by any form of general solicitation or general advertising. The Company has offered the Shares for sale only to the Purchasers and certain other “accredited investors” within the meaning of Rule 501 under the Securities Act.

(bb) Insolvency. The Company is not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at the Closing, will not be Insolvent (as defined below). For purposes of this Section 3.1(bb), “Insolvent” means, with respect to any Person, (i) the present fair saleable value of such Person’s assets is less than the amount required to pay such Person’s total indebtedness, (ii) such Person is

unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (iii) such Person intends to incur or believes that it will incur debts that would be beyond its ability to pay as such debts mature or (iv) such Person has unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted.

(cc) Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Company in its Exchange Act filings and is not so disclosed or that otherwise would be reasonably likely to have a Material Adverse Effect.

(dd) No Undisclosed Events, Liabilities, Developments or Circumstances. Except for the transactions contemplated by this Agreement, no event, liability, development or circumstance has occurred or exists with respect to the Company or its business, properties, prospects, operations or financial condition, that is required to be, and has not been, disclosed, by the Company under applicable securities laws on a Current Report on Form 8-K filed with the SEC.

(ee) Environmental Laws. The Company is in compliance with any and all Environmental Laws (as hereinafter defined), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term “Environmental Laws” means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, “Hazardous Materials”) into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(ff) PFIC. Neither the Company nor any Subsidiary is or intends to become a “passive foreign investment company” within the meaning of Section 1297 of the U.S. Internal Revenue Code of 1986, as amended.

(gg) Manipulation of Price. The Company has not, and to its knowledge no one acting on its behalf has taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Warrants or resale of any of the Warrant Shares.

(hh) Foreign Corrupt Practices. Neither the Company nor any of its Subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee or other Person acting on behalf of the Company or any of its Subsidiaries has, in the course of its actions for, or on behalf of, the Company (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(ii) OFAC. Neither the Company nor any Subsidiary nor, to the knowledge of the Company, any director, officer, agent, employee, Affiliate or Person acting on behalf of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”); and the Company will not directly or indirectly use the proceeds of the sale of the Shares, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person or entity, towards any sales or operations in Cuba, Iran, Syria, Sudan, Myanmar or any other

country sanctioned by OFAC or for the purpose of financing the activities of any Person currently subject to any U.S. sanctions administered by OFAC.

(jj) Money Laundering Laws. The operations of each of the Company and any Subsidiary are and have been conducted at all times in compliance with the money laundering statutes of applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any applicable governmental agency (collectively, the “Money Laundering Laws”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company and/or any Subsidiary with respect to the Money Laundering Laws is pending or, to the Company’s knowledge, threatened.

(kk) Material, Non-Public Information. The Company confirms that neither it nor, to its knowledge after due inquiry, any of its officers or directors nor any other Person acting on its or their behalf has provided, and it has not authorized the Placement Agent to provide, any Purchaser or its respective agents or counsel with any information that it believes constitutes or could reasonably be expected to constitute material, non-public information except insofar as the existence, provisions and terms of the Transaction Documents and the proposed transactions hereunder may constitute such information, all of which will be disclosed by the Company in the press release and Current Report on Form 8-K as contemplated by Section 4.4 hereof. The Company understands and confirms that the Purchasers will rely on the foregoing representations in effecting transactions in securities of the Company. No event or circumstance has occurred or information exists with respect to the Company or any of its Subsidiaries or its or their business, properties, operations or financial conditions, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed (assuming for this purpose that the Company’s reports filed under the Exchange Act are being incorporated into an effective registration statement filed by the Company under the Securities Act), except for the announcement of this Agreement and related transactions.

(ll) Acknowledgment Regarding Purchasers’ Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm’s length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers’ purchase of the Shares.

(mm) No Additional Agreements. The Company does not have any agreement or understanding with any Purchaser with respect to the transactions contemplated by the Transaction Documents other than as specified in the Transaction Documents.

**3.3 Representations and Warranties of the Purchasers**. Each Purchaser hereby, for itself and for no other Purchaser, represents and warrants as of the date hereof and as of the Closing Date to Elixir Group and the Company as follows:

(a) Organization; Authority. Such Purchaser is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with full right, corporate or partnership power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution, delivery and performance by such Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate or similar action on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive

relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Own Account. Such Purchaser understands that the Securities are “restricted securities” and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Shares in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty shall not limit such Purchaser’s right to sell the Warrant Shares pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws) in violation of the Securities Act or any applicable state securities law. Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and at the date hereof it is, an “accredited investor” as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act. Such Purchaser is not required to be registered as a broker-dealer under Section 15 of the Exchange Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) General Solicitation. Such Purchaser is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

(f) Short Sales and Confidentiality Prior To The Date Hereof. Other than the purchases and sales of securities contemplated hereunder, such Purchaser has not directly or indirectly, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, engaged in any transaction, including Short Sales, in the securities of the Company since the earlier to occur of (i) the time that such Purchaser was first contacted by the Company regarding the transactions contemplated by this Agreement, or (ii) the 10<sup>th</sup> day prior to the date of this Agreement (such earlier date, “Discussion Time”). Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser’s assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser’s assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction).

(g) Access to Information. Such Purchaser acknowledges that it has received and had the opportunity to review (i) copies of the SEC Reports, and (ii) all exhibits thereto. Such Purchaser further acknowledges that it or its representatives have been afforded (iii) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities, the merits and risks of investing in the Securities, (iv) access to information about the Company and the Company’s financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment in the Securities; and (v) the opportunity to obtain such additional information which the Company possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy and completeness of the information contained in the SEC Reports.

(h) Restrictions on Securities. Such Purchaser understands that the Securities have not been registered under the Securities Act and may not be offered, resold, or otherwise transferred except (a) pursuant to an exemption from registration under the Securities Act or pursuant to an effective registration statement in compliance with Section 5 under the Securities Act and (b) in accordance with all applicable securities laws of the states of the United States and other jurisdictions.

(i) Acknowledgment. Such Purchaser understands and acknowledges that it has agreed to exercise in full all of the Warrants purchased under this Agreement at the Closing by delivering to the Company, via wire transfer or a certified check, the exercise price as provided in this Agreement, and such Purchaser further understands and acknowledges that no net issuance exercise or “cashless” exercise will be available or utilized in this transaction.

## ARTICLE IV.

### OTHER AGREEMENTS OF THE PARTIES

#### 4.1 Transfer Restrictions.

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, the Company may require the transferor thereof to provide to the Company an opinion of counsel, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act.

(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1(b), of a legend on any of the Securities in the following form:

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND ARE “RESTRICTED SECURITIES” AS THAT TERM IS DEFINED IN RULE 144 UNDER THE SECURITIES ACT. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND THE APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION THEREUNDER, THE AVAILABILITY OF WHICH IS TO BE ESTABLISHED TO THE REASONABLE SATISFACTION OF COUNSEL TO THE ISSUER.

(c) The Company acknowledges and agrees that a Purchaser may from time to time pledge, and/or grant a security interest in some or all of the legended Warrant Shares, in connection with applicable securities laws, pursuant to a bona fide margin agreement in compliance with a bona fide margin loan. Such a pledge would not be subject to approval or consent of the Company and no legal opinion of legal counsel to the pledgee, secured party, or pledgor shall be required in connection with the pledge, but such legal opinion shall be required in connection with a subsequent transfer or foreclosure following default by such Purchaser. No notice shall be required of such pledge but the Purchaser shall promptly notify the Company of any such subsequent transfer or foreclosure. Each Purchaser acknowledges that the Company shall not be responsible for any pledges relating to, or the grant of any security interest in, any of the Warrant Shares or for any agreement, understanding or arrangement between any Purchaser and its pledgee or secured party. Each Purchaser acknowledges and agrees that, except as otherwise provided in Section 4.1(d), any Warrant Shares subject to a pledge or security interest as contemplated by this Section 4.1(b) shall continue to bear the legend set forth in this Section 4.1(b) and be subject to the restrictions on transfer set forth in Section 4.1(a).

(d) Subject to and in reliance upon compliance of the Purchasers with Sections 7(b) and 7(c) of the Registration Rights Agreement, certificates evidencing Warrant Shares shall not be required to contain such legend (i) while a Registration Statement covering the resale of such Warrant Shares is effective under the Securities Act, or (ii) following any sale of such Warrant Shares pursuant to Rule 144, or (iii) if such Warrant

Shares are eligible for sale under Rule 144(k), or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the Staff of the Commission). Following the Effective Date or at such earlier time as a legend is no longer required for certain Warrant Shares, the Company will no later than ten (10) calendar days following the delivery by a Purchaser to the Company's transfer agent (with notice to the Company) of a legended certificate representing such Warrant Shares (endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to effect the reissuance and/or transfer and an opinion of counsel to the extent required by Section 4.1(a)), deliver or cause to be delivered to such Purchaser a certificate representing such Warrant Shares that is free from such restrictive legends.

(e) Each Purchaser hereunder acknowledges its primary responsibilities under the Securities Act and accordingly covenants and agrees not to sell the Warrant Shares or any interest therein without complying with the requirements of the Securities Act and any applicable prospectus delivery requirements. While the above-referenced Registration Statement remains effective, each Purchaser hereunder may sell the Warrant Shares in accordance with the plan of distribution contained in the Registration Statement and if it does so it will comply therewith and with the related prospectus delivery requirements unless an exemption therefrom is available.

(f) If the Company shall fail for any reason or for no reason to issue to a Purchaser unlegended certificates within three (3) Trading Days of receipt of all documents necessary for the removal of the legend set forth in Section 4.1(d) above (the "Deadline Date"), then, in addition to all other remedies available to such Purchaser, if on or after the Trading Day immediately following such three-day period, such Purchaser sells Warrant Shares in an open-market transaction which the Purchaser anticipated receiving from the Company without any restrictive legend and is required to purchase shares of Common Stock to deliver in satisfaction of the sale by the Purchaser (a "Buy-In"), then the Company shall, within three (3) Trading Days after such Purchaser's request and in such Purchaser's sole discretion, either (i) pay cash to the Purchaser in an amount equal to such Purchaser's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased (the "Buy-In Price"), at which point the Company's obligation to deliver such certificate (and to issue such shares of Common Stock) shall terminate, or (ii) promptly honor its obligation to deliver to such Purchaser a certificate or certificates representing such shares of Common Stock and pay cash to the Purchaser in an amount equal to the excess (if any) of the Buy-In Price over the product of (a) such number of shares of Common Stock, times (b) the closing bid price on the Deadline Date.

4.2 Furnishing of Information. As long as any Purchaser owns Warrant Shares, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act. As long as any Purchaser owns Warrant Shares, if the Company is not required to file reports pursuant to the Exchange Act, it will prepare and furnish to the Purchasers and make publicly available in accordance with Rule 144(c) such information as is required for the Purchasers to sell the Warrant Shares under Rule 144. The Company further covenants that it will take such further action as any holder of Warrant Shares may reasonably request, to the extent required from time to time to enable such Person to sell such Warrant Shares without registration under the Securities Act within the requirements of the exemption provided by Rule 144.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Warrant Shares in a manner that would require the registration under the Securities Act of the sale of the Warrant Shares to the Purchasers or that would be integrated with the offer or sale of the Warrant Shares for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall, by 9:00 a.m. (New York City time) on the Business Day immediately following the date of this Agreement issue a press release reasonably acceptable to each Purchaser disclosing all material terms of the transactions contemplated hereby, and shall file a Current Report on Form 8-K (the "Closing 8-K") attaching the Transaction Documents thereto by the end of such Business Day. No Purchaser shall issue any such press release or otherwise make any such public statement without the prior consent



of the Company. The Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (i) as required by federal securities law in connection with (A) any registration statement contemplated by the Registration Rights Agreement and (B) the filing of final Transaction Documents (including signature pages thereto) with the Commission and (ii) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this subclause (ii).

4.5 Use of Proceeds. The Company shall use the net proceeds from the sale of the Warrant Shares for general corporate purposes, including general and administrative expenses, and, except as set forth on Schedule 4.5, not for (i) the repayment of any outstanding Indebtedness of the Company or any of its Subsidiaries, or (ii) the redemption or repurchase of any of its or its Subsidiaries' equity securities.

4.6 Listing of Common Stock. The Company hereby agrees to use its best efforts to maintain the listing of the Common Stock on a Trading Market, and as soon as practicable following the Closing to list all of the Warrant Shares on such Trading Market. The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading Market, it will include in such application all of the Warrant Shares, and will take such other action as is necessary to cause all of the Warrant Shares to be listed on such other Trading Market as promptly as possible. The Company will take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market.

4.7 Short Sales and Confidentiality After The Date Hereof. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will engage in any purchases or sales of, including any Short Sales, the securities of the Company during the period commencing at the Discussion Time and ending twenty-four (24) hours after the time that the transactions contemplated by this Agreement are first publicly announced by dissemination of the press release as described in Section 4.4 ("Black-out Termination Date"). Each Purchaser, severally and not jointly with the other Purchasers, covenants that until the Black-out Termination Date, such Purchaser will maintain the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Each Purchaser understands and acknowledges, severally and not jointly with any other Purchaser, that the Commission currently takes the position that coverage of short sales of shares of the Common Stock "against the box" prior to the Effective Date of the Registration Statement with respect to the Shares is a violation of Section 5 of the Securities Act, as set forth in Item 65, Section A, of the Manual of Publicly Available Telephone Interpretations, dated July 1997, compiled by the Office of Chief Counsel, Division of Corporation Finance. Notwithstanding the foregoing, no Purchaser makes any representation, warranty or covenant hereby that it will not engage in Short Sales in the securities of the Company after the Black-out Termination Date. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Shares covered by this Agreement.

4.8 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Warrant Shares as required under Regulation D and to provide a copy thereof to each Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Shares for, sale to the Purchasers at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

4.9 Indemnification of Purchasers. In addition to the indemnity provided in the Registration Rights Agreement, the Company will indemnify and hold the Purchasers and their affiliates, directors, officers, shareholders, partners, employees and agents (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (collectively, "Losses") that any such Purchaser Party may suffer or incur as a result of or relating to: (a) any misrepresentation, breach or inaccuracy of any representation,

warranty, covenant or agreement made by the Company in any Transaction Document; or (b) any cause of action, suit, or claim brought or made against such Purchaser Party and arising out of or resulting from the execution, delivery, performance or enforcement of this Agreement or any of the other Transaction Documents and without causation by other activity, obligation, condition or liability pertaining to such Purchaser; provided, however, the Company will not be liable for (i) special damages or (ii) Losses that arise out of a Purchaser's violation of law, or misrepresentation, breach or inaccuracy of any representation, warranty, covenant or agreement made by Purchaser in any Transaction Document; and provided further, the indemnity agreement contained herein shall not apply to amounts paid in settlement of any such Loss if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld). In addition to the indemnity contained herein, the Company will reimburse each Purchaser Party for its reasonable legal and other expenses (including the cost of any investigation, preparation and travel in connection therewith) incurred in connection therewith, as such expenses are incurred.

## ARTICLE V.

### MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, or the Company by written notice to the other parties, if the Closing has not been consummated on or before December 19, 2007, provided, however, that no such termination will affect the right of any party to sue for any breach by the other party (or parties).

5.2 Fees and Expenses. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all transfer agent fees, stamp taxes, transfer taxes and other taxes and duties levied in connection with the delivery of any Shares to the Purchasers. The Company shall pay all expenses reasonably incurred by Purchasers in connection with the negotiation, drafting, and execution of the Transaction Documents, including, without limitation, attorneys' fees and disbursements, in an aggregate amount not greater than Twenty Thousand Dollars (\$20,000).

5.3 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations described in the foregoing sentence and hereby agree to waive in any action for specific performance of any such obligation (other than in connection with any action for a temporary restraining order) the defense that a remedy at law would be adequate.

5.4 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.5 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under any Transaction Document. The decision of each Purchaser to purchase Warrant Shares pursuant to the Transaction Documents has been made by such Purchaser independently of any other Purchaser and independently of any information, materials, statements or opinions as to the business, affairs, operations, assets, properties, liabilities, results of

operations, condition (financial or otherwise) or prospects of the Company or any Subsidiary which may have been made or given by any other Purchaser or by any agent or employee of any other Purchaser, and no Purchaser and any of its agents or employees shall have any liability to any other Purchaser (or any other Person) relating to or arising from any such information, materials, statement or opinions. Nothing contained herein or in any Transaction Document, and no action taken by any Purchaser pursuant thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser acknowledges that no other Purchaser has acted as agent for such Purchaser in connection with making its investment hereunder and that no Purchaser will be acting as agent of such Purchaser in connection with monitoring its investment in the Warrant Shares or enforcing its rights under the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights, including without limitation the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose. The Company acknowledges that each of the Purchasers has been provided with the same Transaction Documents for the purpose of closing a transaction with multiple Purchasers and not because it was required or requested to do so by any Purchaser. The Company's obligations to each Purchaser under this Agreement are identical to its obligations to each other Purchaser other than such differences resulting solely from the number of Shares purchased by such Purchaser, but regardless of whether such obligations are memorialized herein or in another agreement between the Company and a Purchaser.

5.6 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.7 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number set forth on the signature pages attached hereto prior to 3:30 p.m. (New York time) on a Business Day, (b) the next Business Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number set forth on the signature pages attached hereto on a day that is not a Business Day or later than 3:30 p.m. (New York time) on any Business Day, (c) the 2<sup>nd</sup> Business Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.8 Amendments; Waivers. No provision of this Agreement may be amended or waived except in a written instrument signed by the Company and the Purchasers holding not less than 85% of the Warrant Shares; provided, however, that if any amendment or waiver operates in a manner that treats any Purchaser differently from the other Purchasers, the consent of such Purchaser shall also be required for such amendment or waiver. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right.

5.9 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.10 Successors and Assigns. This Agreement, and any and all rights, duties and obligations hereunder, shall not be assigned, transferred, delegated or sublicensed by the Company without the prior written consent of each Purchaser. Subject to the foregoing and except as otherwise provided herein, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

5.11 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their

respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

5.12 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the State of New York, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Each party hereby irrevocably waives any right it may have, and agrees not to request, a jury trial for the adjudication of any dispute hereunder or in connection with or arising out of this Agreement or any transaction contemplated hereby. If either party shall commence an action or proceeding to enforce any provisions of the Transaction Documents, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

5.13 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Shares. Each Purchaser shall be responsible only for its own representations, warranties and covenants hereunder.

5.14 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.15 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.16 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights.

5.17 Replacement of Shares. If any certificate or instrument evidencing any Warrant Shares is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any

reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Shares.

5.18 Construction. The parties agree that each of them and/or their respective counsel has reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments hereto.

5.19 Limitations of Liability. Notwithstanding anything herein to the contrary, the Company acknowledges and agrees that the liability of a Purchaser arising directly or indirectly, under any Transaction Document of any and every nature whatsoever shall be satisfied solely out of the assets of such Purchaser, and that no trustee, officer, other investment vehicle or any other Affiliate of such Investor or any investor, shareholder or holder of shares of beneficial interest of such a Purchaser shall be personally liable for any liabilities of such Purchaser.

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**ELIXIR GROUP LIMITED**

By: /s/ Gordon Yuen

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Gordon Yuen,  
Chief Executive Officer

Address for Notice: \_\_\_\_\_

38/F., The Centrium,  
60 Wyndam Street  
Central, Hong Kong  
Fax: (852) 3162 2579

**ELIXIR GAMING TECHNOLOGIES, INC.** Address for Notice: \_\_\_\_\_

By: \_\_\_\_\_

/s/ David Reberger

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David Reberger,  
Chief Financial Officer

---

1120 Town Center  
Suite 260  
Las Vegas, NV 89144  
Fax: (702) 733-7197

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[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Lagunitas Partners LP

\_\_\_\_\_  
Name of Purchaser /s/ Jon D. Gruber

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Gruber & McBaine Cap. Mgmt.

\_\_\_\_\_  
Title: General Partner

\_\_\_\_\_  
Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$\_\_\_\_\_ Warrants: 375,000 Warrant

Exercise Amount: \$\_\_\_\_\_ Warrant Shares: 375,000 Total Amount to  
be Deposited into Escrow: \$1,316,250

Address for Notice:

GMCM

50 Osgood Pl. - PH

San Francisco, CA 94133

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Jon D. & Linda W. Gruber Trust

Name of Purchaser /s/ Jon D. Gruber

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Jon D. Gruber

Title: Trustee

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$\_\_\_\_\_ Warrants: 125,000 Warrant

Exercise Amount: \$\_\_\_\_\_ Warrant Shares: 125,000 Total Amount to  
be Deposited into Escrow: \$438,750

Address for Notice:

GMCM

50 Osgood Pl. - PH

San Francisco, CA 94133

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:



IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Capital Ventures International by: Heights Capital Management,  
Inc. its authorized agent

\_\_\_\_\_  
Name of Purchaser /s/ Michael Spolan

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Michael Spolan

\_\_\_\_\_  
Title: General Counsel

Its: \_\_\_\_\_  
(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$129,000 Warrants: 150,000

Warrant Exercise Amount: \$397,500 Warrant Shares: 150,000

Total Amount to be Deposited into Escrow: \$526,500

Address for Notice:

c/o Heights Capital Management  
101 California Street, Suite 3250  
San Francisco, CA 94111

with a copy to:

Address for Delivery of Warrants  
and Warrant Shares for  
Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Octagon Capital Partners

Name of Purchaser /s/ Steven Hart

Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Steven Hart

Title: General Partner —

Its: \_\_\_\_\_

(Printed Name of Authorized Person and  
Title for Person executing for Purchaser)

Warrant Subscription Amount: \$12,251 Warrants: 14,245

Warrant Exercise Amount: \$37,749 Warrant Shares: 14,245

Total Amount to be Deposited into Escrow: \$50,000

Address for Notice: \_\_\_\_\_

155 West 68<sup>th</sup> Street, #27E  
New York, NY 10023

with a copy to:  
Address for Delivery of Warrants and  
Warrant Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Heller Capital Investments

\_\_\_\_\_  
Name of Purchaser /s/ Ronald I. Heller

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Ronald I. Heller

\_\_\_\_\_  
Title: CIO

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$232,849 Warrants: 270,755 Warrant

Exercise Amount: \$717,501 Warrant Shares: 270,755 Total Amount to  
be Deposited into Escrow: \$950,350

Address for Notice:

c/o Steven Hart  
700 E. Palisade Avenue  
Englewood Cliffs, NJ 07632

with a copy to:  
Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Kaia Investment Management LLC

Name of Purchaser

/s/ Oded Levy

Signature of Purchaser or by Authorized Person

executing for Purchaser

Printed Name: Oded Levy

Title: Managing Partner

Its: \_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$86,000

Warrants: 100,000

Warrant Exercise Amount: \$265,000

Warrant Shares: 100,000

Total Amount to be Deposited into Escrow: \$351,000

Address for Notice:

—

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Marea Master Fund Ltd.

\_\_\_\_\_  
Name of Purchaser /s/ Aaron Chan

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Aaron Chan

\_\_\_\_\_  
Title: Director —

\_\_\_\_\_  
Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$1,290,000 Warrants: 1,500,000

Warrant Exercise Amount: \$3,975,000 Warrant Shares: 1,500,000

Total Amount to be Deposited into Escrow: \$5,265,000

Address for Notice:  
\_\_\_\_\_

444 Madison Avenue, Suite 32-02  
New York, NY 10022

with a copy to:

Address for Delivery of  
Warrants and Warrant Shares  
for Purchaser:

Marea Capital Management LLC  
444 Madison Avenue, Suite 32-02  
New York, NY 10022

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

North Point Partners I, LLC

\_\_\_\_\_  
Name of Purchaser /s/ Peter Imber

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing  
for Purchaser Printed Name: Peter Imber

\_\_\_\_\_  
Title: Managing Member —

\_\_\_\_\_  
Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$34,000

Warrants: 40,000

Warrant Exercise Amount: \$106,000

Warrant Shares: 40,000

Total Amount to be Deposited into Escrow: \$140,400

Address for Notice: \_\_\_\_\_

767 3<sup>rd</sup> Avenue, 6<sup>th</sup> Floor  
New York, NY 10017

with a copy to:

Athena Ruggiero

Conifer Securities

1 Ferry Bldg., Suite 255

San Francisco, CA 94111

Address for Delivery of Warrants and Warrant  
Shares for Purchaser:

Same as address for Notice

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Cardinal Bear LLC

\_\_\_\_\_  
Name of Purchaser /s/ Michael F. Baxter

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Michael F. Baxter

\_\_\_\_\_  
Title: Member

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$215,000 Warrants: 250,000 Warrant

Exercise Amount: \$662,500 Warrant Shares: 250,000 Total Amount to be

Deposited into Escrow: \$877,500

Address for Notice:

11111 Santa Monica Blvd.

Suite 1100

Los Angeles, CA 90025

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:

Dolly Sacher

Merrill Lynch

2049 Century Park East,

Suite 1100

Los Angeles, CA 90067

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Gerald Catenacci

\_\_\_\_\_  
Name of Purchaser /s/ Debra Jennings

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Debra Jennings

\_\_\_\_\_  
Title: CFO & CCO

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$57,232 Warrants: 66,549

Warrant Exercise Amount: \$176,355 Warrant Shares: 66,549

Total Amount to be Deposited into Escrow: \$233,587

Address for Notice:

Highway Partners, L.P.  
666 Fifth Avenue, 37<sup>th</sup> Floor  
New York, NY 10103

with a copy to:

Address for Delivery of Warrants and  
Warrant Shares for Purchaser:



IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Gerald Catenacci

\_\_\_\_\_  
Name of Purchaser /s/ Debra Jennings

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Debra Jennings

\_\_\_\_\_  
Title: CCO & CFO

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$320,929 Warrants: 373,173

Warrant Exercise Amount: \$988,909 Warrant Shares: 373,173

Total Amount to be Deposited into Escrow: \$1,309,838

Address for Notice:

Thruway Partners, L.P.

666 Fifth Avenue, 37<sup>th</sup> Floor

New York, NY 10103

with a copy to:

Address for Delivery of Warrants and

Warrant Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Gerald Catenacci

\_\_\_\_\_  
Name of Purchaser /s/ Debra Jennings

Signature of Purchaser or by Authorized Person  
executing for Purchaser

Printed Name: Debra Jennings

\_\_\_\_\_  
Title: CFO & CCO

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$911,839 Warrants: 1,060,278

Warrant Exercise Amount: \$2,809,736 Warrant Shares:

1,060,278 Total Amount to be Deposited into Escrow:

\$3,721,575

Address for Notice: \_\_\_\_\_

Expressway Partners Master Fund,  
Ltd.

c/o Walkers SPV Limited

Walker House

87 Mary Street

George Town

Grand Cayman, KY1-9002 Cayman Islands

with a copy to:

Address for Delivery of Warrants and

Warrant Shares for Purchaser:

Principled Asset Administration,

L.L.C.

666 Fifth Avenue, 37<sup>th</sup> Floor

New York, NY 10103

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

UBS O'Connor LLC f/b/o: O'Connor Pipes Corporate Strategies Master Limited

\_\_\_\_\_  
Name of Purchaser /s/ Jeffrey F. Putman

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Jeffrey F. Putman

Title: Executive Director

—

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

Warrant Subscription Amount: \$258,000 Warrants: 300,000 Warrant Exercise Amount: \$795,000 Warrant Shares: 300,000 Total Amount to be Deposited into Escrow: \$1,053,000

Address for Notice:  
c/o UBS O'Connor LLC  
One North Wacker Drive  
32<sup>nd</sup> Floor  
Chicago, IL 60606  
Attn: Rob Murray

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser:  
Same as above.

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Todd Binden

\_\_\_\_\_  
Name of Purchaser

/s/ Todd Binden

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person  
executing for Purchaser

Printed Name:

Title:

Its:\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$172,000

Warrants: 200,000

Warrant Exercise Amount: \$530,000

Warrant Shares: 200,000

Total Amount to be Deposited into Escrow: \$702,000

Address for Notice:

—

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Asgard Partners LP

Name of Purchaser /s/ Ron Silverton

Signature of Purchaser or by Authorized Person executing for

Purchaser Printed Name: Ron Silverton

Title: Managing Member

—

Its: \_\_\_\_\_

(Printed Name of Authorized Person and Title

for Person executing for Purchaser)

Warrant Subscription Amount: \$245,100 Warrants: 285,000 Warrant

Exercise Amount: \$755,250 Warrant Shares: 285,000 Total

Amount to be Deposited into Escrow: \$1,000,350

Address for Notice:

Asgard Investment Advisors LLC

11150 Santa Monica Blvd.

Suite 888

Los Angeles, CA 90025

Attn: Ron Silverton

with a copy to:

Address for Delivery of

Warrants and Warrant Shares

for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Buckland Partners Focus Fund LP

\_\_\_\_\_  
Name of Purchaser /s/ James A. Shifren

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: James A. Shifren

\_\_\_\_\_  
Title: Principal —

Its: Member of General Partner

\_\_\_\_\_

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$43,000 Warrants: 50,000 Warrant Exercise  
Amount: \$132,500 Warrant Shares: 50,000 Total Amount to be Deposited  
into Escrow: \$175,500

Address for Notice:

\_\_\_\_\_

9 Old Kings Hwy. So.  
Suite 300  
Darien, CT 06820

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

The Canyon Value Realization Fund (Cayman), Ltd.

Name of Purchaser /s/ Joshua S. Friedman

Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Joshua S. Friedman

Title: Managing Partner of Canyon Capital Advisors LLC —  
Its: Investment Advisor

—  
(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$2,408,000 Warrants: 2,800,000

Warrant Exercise Amount: \$7,420,000 Warrant Shares: 2,800,000

Total Amount to be Deposited into Escrow: \$9,828,000

Address for Notice:  
—  
c/o Canyon Capital Advisors LLC  
9665 Wilshire Blvd., Suite 200  
Beverly Hills, CA 90212

with a copy to:  
N/A  
Address for Delivery of  
Warrants and Warrant Shares  
for Purchaser:  
Marietta Levy-Green  
City National Bank  
555 South Flower Street,  
12<sup>th</sup> Floor  
Los Angeles, CA 90071

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Canyon Value Realization MAC 18 Ltd.

\_\_\_\_\_  
Name of Purchaser /s/ Joshua S. Friedman

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Joshua S. Friedman

\_\_\_\_\_  
Title: Managing Partner of Canyon Capital Advisors LLC —  
Its: Investment Advisor

\_\_\_\_\_  
(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$172,000 Warrants: 200,000

Warrant Exercise Amount: \$530,000 Warrant Shares: 200,000

Total Amount to be Deposited into Escrow: \$702,000

Address for Notice: \_\_\_\_\_

c/o Canyon Capital Advisors LLC  
9665 Wilshire Blvd., Suite 200  
Beverly Hills, CA 90212

with a copy to:

N/A

Address for Delivery of  
Warrants and Warrant Shares  
for Purchaser:

Marietta Levy-Green  
City National Bank  
555 South Flower Street,  
12<sup>th</sup> Floor  
Los Angeles, CA 90071



IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Canyon Value Realization Fund, L.P.

Name of Purchaser /s/ Joshua S. Friedman

Signature of Purchaser or by Authorized Person executing for  
Purchaser Printed Name: Joshua S. Friedman

Title: Managing Partner of Canyon Capital Advisors LLC —  
Its: Investment Advisor

—  
(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$860,000 Warrants: 1,000,000

Warrant Exercise Amount: \$2,650,000 Warrant Shares: 1,000,000

Total Amount to be Deposited into Escrow: \$3,510,000

Address for Notice:

—  
c/o Canyon Capital Advisors LLC  
9665 Wilshire Blvd., Suite 200  
Beverly Hills, CA 90212

with a copy to:

N/A  
Address for Delivery of  
Warrants and Warrant Shares  
for Purchaser:  
Marietta Levy-Green  
City National Bank  
555 South Flower Street,  
12<sup>th</sup> Floor  
Los Angeles, CA 90071

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Chesapeake Partners Limited Partnership

Name of Purchaser

/s/ Mark Lerner

Signature of Purchaser or by Authorized Person

executing for Purchaser

Printed Name: Mark Lerner

Title: Member, CP Management LLC

Its:

(Printed Name of Authorized Person and Title for

Person executing for Purchaser)

Warrant Subscription Amount: \$860,000

Warrants: 1,000,000

Warrant Exercise Amount: \$2,650,000

Warrant Shares: 1,000,000

Total Amount to be Deposited into Escrow: \$3,510,000

Address for Notice:

—

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Chesapeake Partners International Ltd.

Name of Purchaser

/s/ Mark Lerner

Signature of Purchaser or by Authorized Person

executing for Purchaser

Printed Name: Mark Lerner

Title: Member, CP Management LLC

Its:

(Printed Name of Authorized Person and Title for

Person executing for Purchaser)

Warrant Subscription Amount: \$860,000

Warrants: 1,000,000

Warrant Exercise Amount: \$2,650,000

Warrant Shares: 1,000,000

Total Amount to be Deposited into Escrow: \$3,510,000

Address for Notice:

—

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Del Rey Management, L.P.

\_\_\_\_\_  
Name of Purchaser /s/ Gregory A. Bied

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Gregory A. Bied

\_\_\_\_\_  
Title: Managing Partner

Its:

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$172,000 Warrants: 200,000 Warrant Exercise  
Amount: \$530,000 Warrant Shares: 200,000 Total Amount to be Deposited  
into Escrow: \$702,000

Address for Notice:  
877 West Main Street  
Suite 600  
Boise, ID 83702

with a copy to:  
Address for Delivery  
of Warrants and  
Warrant Shares for  
Purchaser:  
877 West Main Street  
Suite 600  
Boise, ID 83702

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Bear Stearns Sec Corp., fbo J. Steven Emerson Roth IRA

Name of Purchaser /s/ J. Steven Emerson

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: J. Steven Emerson

Title: Prof. Investor

Its: Sole Beneficiary, self dir IRA

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$129,000 Warrants: 150,000 Warrant

Exercise Amount: \$397,500 Warrant Shares: 150,000 Total Amount to  
be Deposited into Escrow: \$526,500

Address for Notice:

1552 Ensley Ave.

Los Angeles, CA 90024

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Bear Stearns Sec Corp., fbo J. Steven Emerson Roth IRA R/O II

Name of Purchaser /s/ J. Steven Emerson

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: J. Steven Emerson

Title: Prof. Investor

Its: Sole Beneficiary, self dir IRA

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$215,000 Warrants: 250,000 Warrant

Exercise Amount: \$662,500 Warrant Shares: 250,000 Total Amount to  
be Deposited into Escrow: \$877,500

Address for Notice:

1552 Ensley Ave.

Los Angeles, CA 90024

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Enable Growth Partners LP

Name of Purchaser

/s/ Brendan O'Neil

Signature of Purchaser or by Authorized Person

executing for Purchaser

Printed Name: Brenda O'Neil

Title: Principal and Portfolio Manager

Its:

(Printed Name of Authorized Person and Title for

Person executing for Purchaser)

Warrant Subscription Amount: \$245,100

Warrants: 285,000

Warrant Exercise Amount: \$755,250

Warrant Shares: 285,000

Total Amount to be Deposited into Escrow: \$1,000,350

Address for Notice:

One Ferry Building

Suite 255

San Francisco, CA

with a copy to:

Address for Delivery

of Warrants and

Warrant Shares for

Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Alan Weichselbaum — Gimmel Partners

Name of Purchaser /s/ Alan Weichselbaum

Signature of Purchaser or by Authorized Person  
executing for Purchaser Printed Name: Alan

Weichselbaum

Title: Managing Member —

Its:

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$86,000 Warrants:  
100,000 Warrant Exercise Amount: \$265,000 Warrant  
Shares: 100,000 Total Amount to be Deposited into  
Escrow: \$351,000

Address for Notice:

—  
767 3<sup>rd</sup> Avenue, 6<sup>th</sup> Floor  
New York, NY 10017

with a copy to:

Address for Delivery of Warrants and Warrant  
Shares for Purchaser:

767 3<sup>rd</sup> Avenue, 6<sup>th</sup> Floor  
New York, NY 10017



IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Strata Capital Management

\_\_\_\_\_  
Name of Purchaser /s/ Steve Bardack

\_\_\_\_\_  
Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Steve Bardack

\_\_\_\_\_  
Title: President

Its:

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$2,713,300 Warrants: 3,155,000 Warrant

Exercise Amount: \$8,360,750 Warrant Shares: 3,155,000 Total Amount to  
be Deposited into Escrow: \$11,074,050

Address for Notice:

9665 Wilshire Blvd.

Suite 505

Beverly Hills, CA 90212

with a copy to:

Address for Delivery of

Warrants and Warrant

Shares for Purchaser:

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Karnak Partners

Name of Purchaser /s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Luxor LLC

Its: General Partner

—

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$60,200 Warrants: 70,000 Warrant

Exercise Amount: \$185,500 Warrant Shares: 70,000 Total Amount to be

Deposited into Escrow: \$245,700

Address for Notice:

c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

with a copy to:

Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Ermitage Selz Fund Limited

Name of Purchaser /s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Selz Capital LLC

Its: Investment Adviser

—

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$94,600 Warrants: 110,000 Warrant  
Exercise Amount: \$291,500 Warrant Shares: 110,000 Total Amount to  
be Deposited into Escrow: \$386,100

Address for Notice:

c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

with a copy to:

Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

GAM Selection Hedge Investments Inc.

Name of Purchaser /s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Selz Capital LLC

Its: Investment Adviser

—

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$146,200 Warrants: 170,000 Warrant

Exercise Amount: \$450,500 Warrant Shares: 170,000 Total Amount to  
be Deposited into Escrow: \$596,700

Address for Notice:

c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

with a copy to:

Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Kirsch-Cassis PSP

Name of Purchaser /s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz —

Title:

Its: Trustee

—

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$172,000 Warrants: 200,000 Warrant

Exercise Amount: \$530,000 Warrant Shares: 200,000 Total Amount to  
be Deposited into Escrow: \$702,000

Address for Notice:

—  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

with a copy to:

Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

IN WITNESS WHEREOF, the parties hereto have caused this Warrant Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

**PURCHASER**

Selz Foundation

Name of Purchaser /s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz —

Title: President

—

Its:

(Printed Name of Authorized Person and Title  
for Person executing for Purchaser)

Warrant Subscription Amount: \$129,000 Warrants: 150,000 Warrant

Exercise Amount: \$397,500 Warrant Shares: 150,000 Total Amount to  
be Deposited into Escrow: \$526,500

Address for Notice:

—  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

with a copy to:  
Address for Delivery of  
Warrants and Warrant  
Shares for Purchaser:  
c/o Selz Capital, LLC  
600 Fifth Avenue  
25<sup>th</sup> Floor  
New York, NY 10020-2309

**Exhibit A**

**Form of Escrow Agreement**

**Exhibit B**

**Form of Registration Rights Agreement**



**Exhibit C**

**Form of Warrant**

**Exhibit D**

**Form of Legal Opinion of Company Counsel**

**Exhibit E**

**Form of Secretary's Certificate**

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## REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of December 10, 2007, among Elixir Gaming Technologies, Inc., a Nevada corporation (the "Company"), and purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser," and collectively, the "Purchasers").

### RECITALS

WHEREAS, Elixir Group Limited, a Hong Kong corporation ("Elixir Group"), proposes to sell to the Purchasers certain Warrants to purchase shares of the Company's Common Stock to the Purchasers pursuant to that certain Warrant Purchase Agreement (the "Purchase Agreement") dated as of even date herewith by and among Elixir Group, the Company and the Purchasers.

WHEREAS, the Company wishes to enter into this Registration Rights Agreement with the Purchasers, and confer upon the Purchasers the benefits provided hereunder, as an inducement to the Purchasers to enter into the Purchase Agreement and consummate the transactions thereunder.

### AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchasers agree as follows:

1. Definitions. Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

"Advice" shall have the meaning set forth in Section 7(c).

"Allowable Grace Period" shall have the meaning set forth in Section 3(j).

"Effective Date" means the date that the Registration Statement is declared effective by the Commission.

"Effectiveness Deadline" means, with respect to the initial Registration Statement required hereunder, (i) in the event that the Registration Statement is not subject to a review by the Commission, the earlier of (x) the 5th Business Day following the date on which the Company is notified by the Commission that the Registration Statement will not be reviewed or is no longer subject to further review and comments, and (y) the date that is 60 calendar days after the Filing Deadline, or (ii) in the event that the Registration Statement is subject to a review by the Commission, the date that is 120 calendar days after the Filing Deadline.

"Effectiveness Failure" shall have the meaning set forth in Section 2(b).

"Filing Date" means, with respect to the initial Registration Statement required hereunder, the date the Registration Statement is filed with the Commission.

"Filing Deadline" means, with respect to the initial Registration Statement required hereunder, 30 calendar days after the Closing Date.

"Filing Failure" shall have the meaning set forth in Section 2(b).

"Grace Period" shall have the meaning set forth in Section 3(j).

"Holder" or "Holders" means the holder or holders, as the case may be, from time to time of Registrable Securities.

"Indemnified Party" shall have the meaning set forth in Section 5(c).

"Indemnifying Party" shall have the meaning set forth in Section 5(c).

"Losses" shall have the meaning set forth in Section 5(a).

"Plan of Distribution" shall have the meaning set forth in Section 2(a).

"Prospectus" means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Registrable Securities" means all of (i) the Warrant Shares; and (ii) any shares of Common Stock issued or issuable upon any stock split, dividend or other distribution, recapitalization or similar event of the Company affecting the Warrant Shares; provided, however, a security shall no longer be a Registrable Security once it has been sold pursuant to Rule 144 under the Securities Act, or may be sold, without volume restrictions pursuant to Rule 144(k) under the Securities Act or sold pursuant to a Registration Statement.

"Registration Delay Payments" shall have the meaning set forth in Section 2(b).

"Registration Statement" means the registration statements required to be filed hereunder, including (in each case) the Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

"Rule 415" means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Selling Shareholder Questionnaire" shall have the meaning set forth in Section 3(a).

## 2. Shelf Registration.

(a) On or prior to the Filing Deadline, and subject to the availability of Rule 415, the Company shall prepare and file with the Commission a "Shelf" Registration Statement covering the resale of the Registrable Securities for an offering to be made on a continuous basis pursuant to Rule 415. The Registration Statement shall be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on another appropriate form in accordance herewith) and shall contain substantially the "Plan of Distribution" attached hereto as Annex A, as modified by the Company as necessary to conform to comments from the Commission. Subject to the terms of this Agreement, the Company shall use its best efforts to cause the Registration Statement to be declared effective under the Securities Act as promptly as possible after the filing thereof, and after the Effective Date, shall use its best efforts to keep such Registration Statement continuously effective under the Securities Act until all Registrable Securities covered by such Registration

Statement have been sold, subject, however, to any Allowable Grace Period. The Company agrees to request the Commission for acceleration of effectiveness at 4:00 p.m. Eastern Standard Time on the Effective Date, and by 9:30 a.m. Eastern Standard Time on the Trading Day following the Effective Date, to file a final Prospectus with the Commission pursuant to Rule 424 and notify the Holders via facsimile of effectiveness of the Registration Statement.

(b) If (i) the initial Registration Statement required to be filed by the Company pursuant to this Agreement that covers all of the Registrable Securities is (A) not filed with the Commission on or before the Filing Deadline (if the Company files a Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) hereof, the Company shall not be deemed to have satisfied this clause) (a "Filing Failure") or (B) not declared effective by the Commission on or before the Effectiveness Deadline (an "Effectiveness Failure") or (ii) on any day during the Effectiveness Period sales of all of the Registrable Securities cannot be made (other than during an Allowable Grace Period (as defined in Section 3(j)) pursuant to such Registration Statement (including, without limitation, because of a failure to keep such Registration Statement effective, to disclose such information as is necessary for sales to be made pursuant to such Registration Statement, or to register a sufficient number of shares of Common Stock) (a "Maintenance Failure") then, as partial relief for the damages to any Holder by reason of any such delay in or reduction of its ability to sell the underlying shares of Common Stock (which remedy shall not be exclusive of any other remedies available at law or in equity), the Company shall pay to each Holder of Registrable Securities an amount in cash equal to one percent (1%) of the aggregate Warrant Subscription Amount and Warrant Exercise Amount that has actually been paid by such Holder in respect of its Registrable Securities on each of the following dates: (i) the day of a Filing Failure; (ii) the day of an Effectiveness Failure; (iii) the initial day of a Maintenance Failure; (iv) on every thirtieth day after the day of a Filing Failure and thereafter (pro rated for periods totaling less than thirty days) until such Filing Failure is cured; (v) on every thirtieth day after the day of an Effectiveness Failure and thereafter (pro rated for periods totaling less than thirty days) until such Effectiveness Failure is cured, subject to adjustment as provided herein; and (vi) on every thirtieth day after the initial day of a Maintenance Failure and thereafter (pro rated for periods totaling less than thirty days) until such Maintenance Failure is cured. In the event of a failure by the Company to cure an Effectiveness Failure on or before the thirtieth day after the date of the Effectiveness Deadline as set forth in clause (v) above, the Registration Delay Payment (as defined herein) for failure to cure such an Effectiveness Failure after such initial 30-day cure period shall be increased to the amounts per each subsequent 30-day period as follows: (i) for the first 30-day period thereafter, at 1.5%; (ii) for the next 30-day period thereafter, at 2.0%; (iii) for the next 30-day period thereafter, at 2.0%; (iv) for the next 30-day period thereafter, at 2.0%; and (v) every 30-day period thereafter in perpetuity, at 3.0%. The payments to which a holder shall be entitled pursuant to this Section 2(b) are referred to herein as "Registration Delay Payments." Registration Delay Payments shall be paid on the earlier of (I) the dates set forth above and (II) the third Business Day after the event or failure giving rise to the Registration Delay Payments is cured.

(c) In the event the number of shares available under a Registration Statement filed pursuant to Section 2 (a) when declared effective or at any time thereafter is insufficient to cover all of the Registrable Securities required to be covered by such Registration Statement, the Company shall amend the applicable Registration Statement, or file a new Registration Statement (on the short form available therefor, if applicable), or both, so as to cover all of the Registrable Securities as of the Trading Day immediately preceding the date of the filing of such amendment or new Registration Statement, in each case, as soon as practicable, but in any event not later than the later of: (i) sixty (60) days after the date substantially all of the Registrable Securities previously included in the initial Registration Statement have been sold; or (ii) the date that is six (6) months after the Effective Date. The Company shall use its best efforts to cause such amendment and/or new Registration Statement to become effective as soon as practicable following the filing thereof.

(d) For the avoidance of doubt and notwithstanding anything contained herein to the contrary, no Registration Delay Payment is payable by the Company to any particular Holder if any such Filing Failure, Effectiveness Failure, or Maintenance Failure, as the case may be, in relation to such Holder's Registrable Securities included in such Registration Statement is caused by the default of the obligations of the relevant Holder under this Agreement (including, without limitation, the obligations of the Holder as set forth in Section 3(a) below). In addition, notwithstanding anything contained herein to the contrary, in the event that the Company is delinquent in filing the Registration Statement by a period of time such that the Effectiveness Deadline has passed

and an Effectiveness Failure has occurred, so that a Registration Delay Payment is triggered for both the Filing Failure and the Effectiveness Failure concurrently, then the Company shall only be obligated to pay one Registration Delay Payment for the concurrent failures, for whichever failure results in a greater Registration Delay Payment.

### 3. Registration Procedures.

In connection with the Company's registration obligations hereunder, the Company shall:

(a) The Company shall not file a Registration Statement, any Prospectus, or any amendments or supplements thereto in which the "Selling Stockholder" section thereof differs from the disclosure received from a Holder in its Selling Shareholder Questionnaire (as amended and supplemented). Each Holder agrees to be named in the Registration Statement and to carry out the offer and sale of Registrable Securities held by such Holder in a conformance with the Plan of Distribution attached hereto as Annex A, as modified by the Company as necessary to conform to comments from the Commission. Each Holder agrees to furnish to the Company a completed Questionnaire in the form attached to this Agreement as Annex B (a "Selling Shareholder Questionnaire") by the end of the eighth Trading Day following the date on which such Holder receives the Selling Shareholder Questionnaire and draft materials in accordance with this Section. The Company shall ensure that each Registration Statement (including any amendments or supplements thereto and prospectuses contained therein) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein (in the case of prospectuses, in the light of the circumstances in which they were made) not misleading, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder, its directors, authorized officers or attorneys expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder its directors, authorized officers or attorneys expressly for use in a Registration Statement, such Prospectus or such form of Prospectus or in any amendment or supplement thereto. Each Holder shall ensure that its Selling Shareholder Questionnaire furnished to the Company shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein not misleading.

(b) Not less than five Trading Days prior to the filing of each Registration Statement and not less than two Trading Days prior to the filing of any related amendment or supplement thereto, the Company shall permit the Holders to review and comment upon the Registration Statement and any amendments and supplements to all Registration Statements (except for Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and any similar or successor reports), and not file any Registration Statement or amendment or supplement thereto in a form to which the Holders or their legal counsel reasonably objects, provided that the Holders or their legal counsel shall provide the Company with any comments within two (2) Trading Days of the receipt of the Registration Statement and shall provide the Company with any comments within one (1) Trading Day of the receipt of any related amendment or supplement thereto. The Company shall furnish to the Holder, without charge, (i) copies of any correspondence from the Commission or the staff of the Commission to the Company or its representatives relating to any Registration Statement, (ii) promptly after the same is prepared and filed with the Commission, one copy of any Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by a Holder and not otherwise available on the EDGAR system, and all exhibits and (iii) upon the effectiveness of any Registration Statement, one copy of the prospectus included in such Registration Statement and all amendments and supplements thereto.

(c) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period, except for periods based on events described in Section 3(d), (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and as so supplemented or amended to be filed pursuant to Rule 424; (iii) respond promptly to any comments received from the Commission with respect to a Registration Statement or any amendment thereto; and (iv) comply in all material respects with the

provisions of the Securities Act and the Exchange Act applicable to the Company with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (ii) through (iv) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible, and in any event within one (1) Trading Day after the occurrence of the event requiring notice herein, (i) with respect to a Registration Statement or any post-effective amendment, when the same has become effective; (ii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities; (iii) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction; (iv) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; or (v) when the Commission notifies the Company whether there will be a review of such Registration Statement and whenever the Commission comments in writing on such Registration Statement (the Company shall provide true and complete copies thereof and all written responses thereto to each of the Holders that pertain to the Holders as a Selling Stockholder or to the Plan of Distribution, but not information which the Company believes would constitute material and non-public information). Any and all of such information contemplated by subparagraphs (i) through (v) shall remain confidential to each Holder until such information otherwise becomes public, unless disclosure by a Holder is required by law.

(e) Use its best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder whose Registrable Securities are included in any Registration Statement, without charge, if not otherwise available on the EDGAR system (i) promptly after the same is prepared and filed with the Commission, at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by a Holder, all exhibits and each preliminary prospectus, (ii) upon the effectiveness of any Registration Statement, ten (10) copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such Holder may reasonably request) and (iii) such other documents, including copies of any preliminary or final prospectus, as such Holder may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such Holder.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of each Prospectus and each amendment or supplement thereto, provided by the Company pursuant to subpart (f) above, by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) Prior to any resale of Registrable Securities by a Holder, register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the Registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided, that the Company shall not be required to qualify generally to do business in



any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(i) Within two (2) Trading Days after a Registration Statement which covers Registrable Securities is ordered effective by the Commission, deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Holders whose Registrable Securities are included in such Registration Statement) confirmation that such Registration Statement has been declared effective by the Commission. The Company shall cooperate with the Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to the Registration Statement, which certificates shall be free, to the extent permitted by the Securities Act, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holders may reasonably request.

(j) Upon the occurrence of any event contemplated by this Section 3, as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (ii) through (iv) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(j) to suspend the availability of a Registration Statement and Prospectus, provided that each period (each, a "Grace Period") shall not exceed fifteen (15) consecutive days and during any three hundred sixty five (365) such Grace Periods shall not exceed an aggregate of thirty (30) days and the first day of any Grace Period must be at least five (5) trading days after the last day of any prior Grace Period (each, an "Allowable Grace Period").

(k) Comply with all applicable rules and regulations of the Commission.

(l) Prior to the effectiveness of the Registration Statement and all other amendments and supplements to the Prospectus, the Company may require each selling Holder to furnish to the Company a certified statement as to (i) the number of shares of Common Stock beneficially owned by such Holder, (ii) the natural persons thereof that have voting and dispositive control over the shares of Common Stock, and (iii) any affiliation between the Holder and either the Company's independent accountants or any member of the FINRA, The Financial Industry Regulatory Authority (formerly NASD).

(m) The Company shall use its best efforts either to cause all of the Registrable Securities covered by a Registration Statement to be listed on the primary securities exchange or stock market on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange or stock market.

(n) The Company agrees not to name or describe a Holder as an underwriter in the Registration Statement, except if Holder provided its consent to such disclosure to the Company or if such Holder is required under applicable securities law to be described in the Registration Statement as an underwriter or pursuant to the Commission's comments, in which case the Company shall notify such Holder and provide such Holder the opportunity to provide input and response in connection with the disclosure.

(o) If requested by a Holder, the Company shall as soon as practicable (i) incorporate in a prospectus supplement or post-effective amendment such information as a Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) make all required filings of such

prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement if reasonably requested by a Holder holding any Registrable Securities.

4. Registration Expenses. All fees and expenses incidental to the performance of or compliance with this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, and (B) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing), (ii) printing expenses incurred by the Company (including, without limitation, expenses of printing certificates for Registrable Securities, (iii) messenger, telephone and delivery expenses incurred by the Company, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance incurred by the Company, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

#### 5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, agents, investment advisors, members, partners, employees and affiliates of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, shareholders, partners, employees and affiliates of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or form of prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading, (2) any violation by the Company of the Securities Act, Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder, its directors, authorized officers, or attorneys expressly for use therein, or to the extent that such information relates to such Holder or such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder, its directors, authorized officers, or attorneys expressly for use in a Registration Statement, such Prospectus or such form of Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose), (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(ii)-(iv), the use by such Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated in Section 7(c), or (iii) any such untrue statement, omission or violation is directly related to and primarily the result of a material breach of this Agreement or violation of law by Holder; or (3) any material breach of this Agreement by the Company.

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents, attorneys and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents, attorneys or employees of such controlling Persons, to the fullest extent permitted by applicable

law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: (x) such Holder's failure to comply with the prospectus delivery requirements of the Securities Act, (y) a material breach of this Agreement or violation of law by Holder, or (z) any untrue statement of a material fact contained in any Registration Statement, any Prospectus, or any form of prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder, its directors, authorized officers, or attorneys to the Company specifically for inclusion in such Registration Statement or such Prospectus or (ii) to the extent that such information relates to such Holder's proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder, its directors, authorized officers, or attorneys expressly for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or such form of Prospectus or in any amendment or supplement thereto or (iii) in the case of an occurrence of an event of the type specified in Section 3(d)(ii)-(iv), the use by such Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated in Section 7(c). In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the net proceeds received by such Holder upon the sale of the Registrable Securities (i.e., the sale price of the Warrant Shares, less the related selling costs and commissions and the exercise price of the Warrants) giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof; provided, that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that such failure shall have prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses; (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding; or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party, in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party. The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed.

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party owing under this Section 5 (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue statement of a material fact or omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties'

relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 5(d), no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, except in the case of fraud by such Holder.

The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

## 6. Reports Under the Exchange Act.

With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the Commission that may at any time permit the Holders to sell securities of the Company to the public without registration ("Rule 144"), the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act so long as the Company remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to each Holder so long as such Holder owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting requirements of Rule 144, the Securities Act and the Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Holders to sell such securities pursuant to Rule 144 without registration.

## 7. Miscellaneous.

(a) Other Registration Rights; Piggyback on Registrations. Except for any registration statements filed or to be filed in respect of the holders of registration rights as set forth in Schedule 3.2(v) of the Disclosure Schedules, the Company agrees and covenants that it will not register the shares of any other holder of its securities prior to registering the Shares. The Company and its security holders (other than the Holders in such capacity pursuant hereto) designated by the Company may include securities of the Company in the Registration Statement in addition to the Registrable Securities; provided, however, Company agrees to limit the inclusion of, or otherwise exclude, such securities in the Registration Statement to the extent necessary in order to satisfy its obligations pursuant to Section 2 above. If at any time the Company shall determine to register any of its securities other than pursuant to (i) a registration statement relating solely to the sale of securities to participants in a Company employee benefits plan, (ii) a registration on any form which does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Shares, (iii) a registration relating to securities issued in connection an acquisition by the Company, (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered, or (v) a registration relating to holders of registration rights which prohibit the Company from including in such registration shares for other selling stockholders, it shall send to each Holder written notice of such determination and, if within twenty (20) days after receipt of such notice, such Holder shall so request in writing,

the Company shall use its commercially reasonable efforts to include in such registration all or any part of the Registrable Securities that such Holder requests to be registered.

(b) Compliance. Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable or an exemption therefrom to it in connection with sales of Registrable Securities pursuant to a Registration Statement.

(c) Discontinued Disposition. Each Holder agrees by its acquisition of Registrable Securities that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its best efforts to ensure that the use of the Prospectus may be resumed as promptly as possible.

(d) Amendments and Waivers. No provision of this Agreement may be amended or waived except in a written instrument signed by the Company and the Holders holding not less than 85% of the Registrable Securities; provided, however, that if any amendment or waiver operates in a manner that treats any Holder differently from the other Holders, the consent of such Holder shall also be required for such amendment or waiver. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement, as the case may be.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign its rights or obligations hereunder without the prior written consent of each Holder. The rights under this Agreement shall be automatically assignable by any Holder to any transferee of 50% or more of such Holder's Registrable Securities if: (i) such Holder agrees in writing with the transferee or assignee to assign such rights and a copy of such agreement is furnished to the Company promptly after such assignment; (ii) the Company is, promptly after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee and (b) the securities with respect to which such registration rights are being transferred or assigned; (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is restricted under the Securities Act and applicable state securities laws; (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein; and (v) such transfer shall have been made in accordance with the applicable requirements of the Purchase Agreement.

(g) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof.

(h) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

(i) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of

this Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the State of New York. The parties hereby waive all rights to a trial by jury. If either party shall commence an action or proceeding to enforce any provisions of this Agreement, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

(j) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(l) Headings. The headings in this Agreement are for convenience only, do not constitute a part of this Agreement, and shall not be deemed to limit or affect any of the provisions hereof

(m) Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under this Agreement are several and not joint with the obligations of each other Purchaser, and no Purchaser shall be responsible in any way for the performance of the obligations of any other Purchaser under this Agreement. Nothing contained herein or in any Transaction Document, and no action taken by any Purchaser pursuant thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Agreement or any other Transaction Document. Each Purchaser acknowledges that no other Purchaser will be acting as agent of such Purchaser in enforcing its rights under this Agreement. Each Purchaser shall be entitled to independently protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Purchaser to be joined as an additional party in any proceeding for such purpose. The Company acknowledges that each of the Purchasers has been provided with the same Registration Rights Agreement for the purpose of the transactions contemplated in the Transaction Documents.

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

**ELIXIR GAMING TECHNOLOGIES,**

**INC.**

By:  
David Reberger,  
Chief Financial Officer

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

**PURCHASER**

Lagunitas Partners LP  
Name of Purchaser

/s/ Jon D. Gruber

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Gruber & McBaine Cap Mgmt

Title: General Partner

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)



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

**PURCHASER**

Jon D. & Linda W. Gruber Trust  
Name of Purchaser

/s/ Jon D. Gruber

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Jon D. Gruber

Title: Trustee

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Capital Ventures International  
Name of Purchaser

/s/ Michael L. Spolan

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Michael L. Spolan

Title:

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Octagon Capital Partners  
Name of Purchaser

/s/ Steven Hart

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Steven Hart

Title: General Partner

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Heller Capital Investments  
Name of Purchaser

/s/ Ronald I. Heller

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Ronald I. Heller

Title: CIO

Its:     

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Kaia Investment Management LLC

Name of Purchaser

/s/ Oded Levy

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Oded Levy

Title: Managing Partner

Its:    

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Marea Master Fund Ltd.  
Name of Purchaser

/s/ Aaron Chan

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Aaron Chan

Title: Director

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

North Point Partners I, LLC

Name of Purchaser

/s/ Peter Imber

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Peter Imber

Title: Managing Member

Its: \_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Cardinal Bear LLC

Name of Purchaser

/s/ Michael F. Baxter

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Michael F. Baxter

Title: Member

Its:    

(Printed Name of Authorized Person and Title for Person executing for Purchaser)



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

**PURCHASER**

Gerald Catenacci  
Name of Purchaser

/s/ Debra Jennings

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Debra Jennings

Title: CFO & CCO

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Gerald Catenacci  
Name of Purchaser

/s/ Debra Jennings

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Debra Jennings

Title: CFO & CCO

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Gerald Catenacci  
Name of Purchaser

/s/ Debra Jennings

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Debra Jennings

Title: CFO & CCO

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

UBS O'Connor LLC f/o/o: O'Connor Pipes

Corporate Strategies Master Limited  
Name of Purchaser

/s/ Jeffrey F. Putman

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Jeffrey F. Putman

Title: Executive Director

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Todd Binden  
Name of Purchaser

/s/ Todd Binden

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name:

Title:

Its:\_\_\_

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Asgard Partners, LP  
Name of Purchaser

/s/ Ron Silverton

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Ron Silverton

Title:

Its: Managing Member

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Buckland Partners Focus Fund LP  
Name of Purchaser

/s/ James A. Shifren

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: James A. Shifren

Title: Principal

Its: Member of General Partner

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

The Canyon Value Realization  
Fund (Cayman), Ltd.  
Name of Purchaser

/s/ Joshua S. Friedman

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Joshua S. Friedman

Title: Managing Partner of Canyon Capital

Advisors LLC

Its: Investment Advisor

(Printed Name of Authorized Person and Title for Person executing for Purchaser)



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

**PURCHASER**

Canyon Value Realization MAC 18 Ltd.  
Name of Purchaser

/s/ Joshua S. Friedman

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Joshua S. Friedman

Title: Managing Partner of Canyon Capital

Advisors LLC

Its: Investment Advisor

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Canyon Value Realization Fund, L.P.  
Name of Purchaser

/s/ Joshua S. Friedman

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Joshua S. Friedman

Title: Managing Partner of Canyon Capital

Advisors LLC

Its: Investment Advisor

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Chesapeake Partners Limited Partnership  
Name of Purchaser

/s/ Mark Lerner

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Mark Lerner

Title: Member, CP Management LLC

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Chesapeake Partners International Ltd.  
Name of Purchaser

/s/ Mark Lerner

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Mark Lerner

Title: Member, CP Management LLC

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Del Rey Management, L.P.  
Name of Purchaser

/s/ Gregory A. Bied

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Gregory A. Bied

Title: Managing Partner

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Bear Stearns Sec Corp. fbo J. Steven  
Emerson Roth IRA  
Name of Purchaser

/s/ J. Steven Emerson

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: J. Steven Emerson

Title: Pro Investor

Its: Sole Beneficiary, self dir. IRA

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Bear Stearns Sec Corp. fbo J. Steven  
Emerson Roth IRA R/O II  
Name of Purchaser

/s/ J. Steven Emerson

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: J. Steven Emerson

Title: Pro Investor

Its: Sole Beneficiary, self dir. IRA

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Enable Growth Partners LP  
Name of Purchaser

/s/ Brendan O'Neil

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Brendan O'Neil

Title: Principal and Portfolio Manager

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)



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

**PURCHASER**

Alan Weichselbaum — Gimmel Partners  
Name of Purchaser

/s/ Alan Weichselbaum

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Alan Weichselbaum

Title: Managing Member

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Strata Capital  
Name of Purchaser

/s/ Steve Bardack

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Steve Bardack

Title: President

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Karnack Partners  
Name of Purchaser

/s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Luxor LLC

Its: General Partner

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Ermitage Selz Fund Limited  
Name of Purchaser

/s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Selz Capital LLC

Its: Investment Adviser

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

GAM Selection Hedge Investments Inc.  
Name of Purchaser

/s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Managing Member, Selz Capital LLC

Its: Investment Adviser

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Kirsch-Cassis PSP  
Name of Purchaser

/s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: Trustee

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

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

**PURCHASER**

Selz Foundation  
Name of Purchaser

/s/ Bernard Selz

Signature of Purchaser or by Authorized Person executing for Purchaser

Printed Name: Bernard Selz

Title: President

Its:

(Printed Name of Authorized Person and Title for Person executing for Purchaser)

## ANNEX A

### Plan of Distribution

The selling stockholders may, from time to time, sell any or all of their shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These sales may be at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale, or at negotiated prices. The selling stockholders may use any one or more of the following methods when selling shares:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
  - an exchange distribution in accordance with the rules of the applicable exchange;
  - privately negotiated transactions;
  - short sales;
- broker-dealers may agree with the selling stockholders to sell a specified number of such shares at a stipulated price per share;
  - a combination of any such methods of sale; and
  - any other method permitted pursuant to applicable law.

The selling stockholders may also sell shares under Rule 144 under the Securities Act, if available, rather than under this prospectus.

The selling stockholders may also engage in puts and calls and other transactions in our securities or derivatives of our securities and may sell or deliver shares in connection with these trades.

Broker-dealers engaged by the selling stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the selling stockholders (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated. The selling stockholders do not expect these commissions and discounts to exceed what is customary in the types of transactions involved. Any profits on the resale of shares of common stock by a broker-dealer acting as principal might be deemed to be underwriting discounts or commissions under the Securities Act. Discounts, concessions, commissions and similar selling expenses, if any, attributable to the sale of shares will be borne by a selling stockholder. The selling stockholders may agree to indemnify any agent, dealer or broker-dealer that participates in transactions involving sales of the shares if liabilities are imposed on that person under the Securities Act. In connection with sales of the shares of common stock or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares of common stock in the course of hedging in positions they assume. The selling stockholders may also sell shares of common stock short and deliver shares of common stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholders may also loan or pledge shares of common stock to broker-dealers that in turn may sell such shares.

The selling stockholders may from time to time pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time under this prospectus after we



have filed a supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933 amending the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus.

The selling stockholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus and may sell the shares of common stock from time to time under this prospectus after we have filed a supplement to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933 amending the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus.

The selling stockholders and any broker-dealers or agents that are involved in selling the shares of common stock may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the shares of common stock purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act.

We are required to pay all fees and expenses incident to the registration of the shares of common stock. We have agreed to indemnify the selling stockholders against certain claims, damages and liabilities, including liabilities under the Securities Act.

The selling stockholders have advised us that they have not entered into any agreements, understandings or arrangements with any underwriters or broker-dealers regarding the sale of their shares of common stock, nor is there an underwriter or coordinating broker acting in connection with a proposed sale of shares of common stock by any selling stockholder. If we are notified by any selling stockholder that any material arrangement has been entered into with a broker-dealer for the sale of shares of common stock, if required, we will file a supplement to this prospectus. If the selling stockholders use this prospectus for any sale of the shares of common stock, they will be subject to the prospectus delivery requirements of the Securities Act.

Under the securities laws of some states, the shares of common stock may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the shares of common stock may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling stockholder will sell any or all of the shares of common stock registered pursuant to the shelf registration statement, of which this prospectus forms a part.

The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, including, without limitation, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of common stock by the selling stockholders and any other participating person. Regulation M may also restrict the ability of any person engaged in the distribution of the shares of common stock to engage in market-making activities with respect to the shares of common stock. All of the foregoing may affect the marketability of the shares of common stock and the ability of any person or entity to engage in market-making activities with respect to the shares of common stock.

Once sold under the shelf registration statement, of which this prospectus forms a part, the shares of common stock will be freely tradable in the hands of persons other than our affiliates.

## ANNEX B

### Elixir Gaming Technologies, Inc.

#### Selling Securityholder Notice and Questionnaire

The undersigned beneficial owner of common stock, par value \$0.001 per share (the “Common Stock”), of Elixir Gaming Technologies, Inc., a Nevada corporation (the “Company”), (the “Registrable Securities”) understands that the Company has filed or intends to file with the Securities and Exchange Commission (the “Commission”) a registration statement on Form S-3 (the “Registration Statement”) for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the “Securities Act”), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement, dated as of December 10, 2007 (the “Registration Rights Agreement”), among the Company and the Holders named therein. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling securityholder in the Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Registration Statement and the related prospectus.

#### NOTICE

The undersigned beneficial owner (the “Selling Securityholder”) of Registrable Securities hereby elects to include the Registrable Securities owned by it and listed below in Item 3 (unless otherwise specified under such Item 3) in the Registration Statement.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

## **QUESTIONNAIRE**

### **1. Name.**

- (a) Full Legal Name of Selling Securityholder
- (b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities Listed in Item 3 below are held:
- (c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by the questionnaire):

### **2. Address for Notices to Selling Securityholder:**

Telephone:

Fax:

Contact Person:

### **3. Beneficial Ownership of Registrable Securities:**

- (a) Type and Number of Registrable Securities beneficially owned:

#### **4. Broker-Dealer Status:**

(a) Are you a broker-dealer?

Yes No

(b) If “yes” to Section 4(a), did you receive your Registrable Securities as compensation for investment banking services to the Company.

Yes No

Note: If no, the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.

(c) Are you an affiliate of a broker-dealer?

Yes No

(d) If you are an affiliate of a broker-dealer, do you certify that you bought the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes No

Note: If no, the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.

#### **5. Beneficial Ownership of Other Securities of the Company Owned by the Selling Securityholder.**

*Except as set forth below in this Item 5, the undersigned is not the beneficial or registered owner of any securities of the Company other than the Registrable Securities listed above in Item 3.*

(a) Type and Amount of Other Securities beneficially owned by the Selling Securityholder:

## **6. Relationships with the Company:**

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

## **7. Relationships with the Company's Independent Accountant:**

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company's independent accountants, Piercy Bowler Taylor & Kern, of Las Vegas, Nevada (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 7 and the inclusion of such information in the Registration Statement and the related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated:

Beneficial Owner:

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title:

**PLEASE FAX A COPY OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE, AND RETURN THE ORIGINAL BY OVERNIGHT MAIL, TO:**

Chris Y. Chen, Esq.  
Greenberg Traurig, LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612

Fax: 949-732-6501

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CONTACT:

Richard Land, Dave Jacoby  
Jaffoni & Collins Incorporated  
212/835-8500; [egt@jcir.com](mailto:egt@jcir.com)

**ELIXIR GAMING TECHNOLOGIES TO RECEIVE \$40 MILLION  
OF NET PROCEEDS AS A RESULT OF WARRANT EXERCISE**

Las Vegas, NV & Macau – December 11, 2007 – Elixir Gaming Technologies, Inc. (AMEX:EGT) (“Elixir Gaming”) announced today that Elixir Group has entered into a private transaction with institutional investors whereby it will sell 16,000,000 existing warrant shares it owns of Elixir Gaming Technologies. The purchase price of the transaction was \$3.51 per share.

As a condition of the sale of the warrants, the warrants will be exercised at closing. Elixir Gaming will raise approximately \$40 million in net proceeds from the exercise of the warrants. Elixir Gaming expects to use the net proceeds from the warrant exercise to fund the purchase of electronic gaming machines pursuant to its agreement with Elixir Group. To date, Elixir Group has delivered agreements for the placement of 4,494 electronic gaming machines to be placed on a long-term participation basis in gaming venues in several Asian-Pacific markets.

Commenting on the transaction, David Reberger, CFO of Elixir Gaming, said, “With this transaction, we’ve brought forward the exercise of the existing warrants in our capital structure, allowing Elixir Gaming to secure non-dilutive financing to fund its significant and growing gaming machine contract pipeline. Elixir Group agreed at the Company’s request to sell the warrants to institutional investors on the condition that they are immediately exercised and the Company thanks Elixir Group, its largest shareholder, for its support in facilitating this financing transaction.”

Reflecting the proceeds from the exercised warrants, Elixir now has approximately \$70 million in cash on hand and no debt.

ThinkEquity Partners, LLC acted as placement agent and Greenburg Traurig, LLP served as securities counsel to Elixir Gaming in connection with the transaction.

**About Elixir Gaming Technologies, Inc**

Elixir Gaming Technologies Inc. (“Elixir Gaming”) is a member of Elixir Group, an innovator of gaming technology solutions and a wholly owned subsidiary of Melco International Development Limited.

Elixir Gaming, in collaboration with Elixir International (which is also a member of Elixir Group), secures long-term contracts to provide comprehensive turn-key solutions to 3, 4 and 5 star hotels, cruise ships and other well-located venues throughout Asia that seek to offer casino gaming products. Elixir International assists the venue and venue owner with the licensing and regulatory process, physical casino design, construction management, slot and game floor design layout purchases the gaming machines and systems from the industry’s leading gaming equipment suppliers and installs the gaming machines and systems such that the casino is delivered in a fully operational state. Elixir Gaming retains ownership of the gaming machines and systems and receives recurring daily fee of at least 20% of the net gaming win per machine and provides on-site maintenance. The Company has established a strategic presence in the Asia Pacific region with participation contracts in the Philippines, Cambodia, Vietnam and other Asian markets. For more information please visit [www.elixirgaming.com](http://www.elixirgaming.com).

**About Elixir Group**

Elixir Group is an important strategic component of Melco International Development Limited’s gaming and leisure entertainment focus. Elixir Group holds the distinction of being a “home-grown” brand: a full-fledged game manufacturer based in Asia – designing, developing and supplying gaming machines and technology solutions (surveillance, LEDs, ATMs) for the Asian market.

With gaming research and development centers in Macau and the Philippines, proximity to key growth markets provides Elixir Group with competitive advantages. As a pioneer in the competitive Asian gaming market, Elixir Group, through its wholly-owned subsidiary, Elixir International, has consistently delivered exciting solutions, expert sales advice and professional gaming support. Elixir International has forged alliances with leading gaming and technology companies and by accessing its partners’ manufacturing capabilities is able to focus entirely on innovative product design and customer service.

Elixir International has also secured several strategic agreements in the provision of gaming technology infrastructure for various gaming concession holders in Macau.

### **Forward Looking Statements**

This press release report contains forward-looking statements concerning Elixir Gaming Technologies and Elixir Group within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Those forward-looking statements include statements regarding the expected closing of the warrant sale, expectations for the business relationship between Elixir Gaming Technologies and Elixir Group, including the recurring revenue that may develop from the relationship with Elixir Group, and the Company's expectations for future product revenue. Such statements are subject to certain risks and uncertainties, and actual circumstances, events or results may differ materially from those projected in such forward-looking statements. Factors that could cause or contribute to differences include, but are not limited to, the risk that the warrant sale not be completed, the risk that Elixir Gaming may not realize the expected benefits of the warrant sale, Elixir Group's inability to place gaming machines at significant levels and risks relating to Elixir Group's ability to place games that generate the expected amount of net-win. Elixir Gaming Technologies cautions readers not to place undue reliance on any forward-looking statements. Elixir Gaming Technologies does not undertake, and specifically disclaims any obligation, to update or revise such statements to reflect new circumstances or unanticipated events as they occur.