UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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): **August 8, 2023**

PENN Entertainment, Inc.
(Exact Name of Registrant as Specified in Charter)

Pennsylvania	**0-24206**	**23-2234473**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

825 Berkshire Blvd., Suite 200
Wyomissing, PA 19610
(Address of Principal Executive Offices, and Zip Code)

610-373-2400
Registrant's Telephone Number, Including Area Code

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 (see General Instruction A.2. below):

☐ Written communication 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 communication pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communication pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.01 par value per share	**PENN**	**The Nasdaq Stock Market LLC**

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry into a Material Definitive Agreement

The information set forth in Item 8.01 of this Current Report on Form 8-K with respect to the Investment Agreement, Warrants and Registration Rights Agreement (each as defined below) is incorporated into this Item 1.01 by reference.

Item 3.02 Unregistered Sale of Equity Securities

The information set forth in Item 8.01 of this Current Report on Form 8-K with respect to the Investment Agreement and Warrants (each as defined below) is incorporated into this Item 3.02 by reference. The Warrants were issued in a private placement pursuant to Section 4(a)(2) of the Securities Act because such issuance did not involve a public offering.

Item 7.01 Regulation FD Disclosure

On August 8, 2023, PENN Entertainment, Inc. ("PENN") issued a press release, a copy of which is attached as Exhibit 99.1 and incorporated by reference in this Current Report on Form 8-K, announcing the entry into the Sportsbook Agreement (as defined below) and the Investment Agreement and the transactions contemplated thereby.

In connection with the announcement of the entry into the Sportsbook Agreement and the Investment Agreement and the transactions contemplated thereby, PENN intends to provide supplemental information regarding the transaction in connection with presentations to analysts and investors. The slides that will be made available in connection with the presentations are attached as Exhibit 99.2 and incorporated by reference in this Current Report on Form 8-K.

The information in this Item 7.01 of this Current Report on Form 8-K, including Exhibits 99.1 and 99.2 hereto, is being furnished to the U.S. Securities and Exchange Commission ("SEC") and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section. This information shall not be incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference to such filing.

Item 8.01 Other Events

Strategic Partnership with ESPN

Sportsbook Agreement

On August 8, 2023, PENN entered into a Sportsbook Agreement (the "Sportsbook Agreement") with ESPN, Inc. ("ESPN") and ESPN Enterprises, Inc. (together, the "ESPN Parties"), which provides for a long-term strategic relationship between PENN and the ESPN Parties relating to online sports betting in the United States.

Pursuant to the Sportsbook Agreement, PENN will rebrand its existing Barstool Sportsbook across all online platforms in the United States as "ESPN Bet" (the "Sportsbook") and will oversee daily operations of the Sportsbook. The Sportsbook Agreement provides PENN with an exclusive license to use the ESPN Bet trademark in the United States in connection with the Sportsbook. In addition, the ESPN Parties will provide certain marketing, content integration and promotional services in support of the Sportsbook, including access to ESPN talent, and will exclusively promote the Sportsbook in the United States, subject to certain exceptions, in accordance with a mutually agreed on-channel marketing plan.

The Sportsbook Agreement has an initial 10-year term and may be extended for an additional ten years upon mutual agreement of the parties. In consideration for the media marketing services and brand and other rights provided by the ESPN Parties, PENN has agreed to pay the ESPN Parties $150 million per year in cash pursuant to the Sportsbook Agreement for the initial 10 year term and issue the Warrants pursuant to the Investment Agreement (as defined and described in more detail below).

The Sportsbook Agreement may be terminated by either party (i) in the case of an uncured material breach by or bankruptcy of the other party, (ii) if at the end of year 3 of the term the Sportsbook has not achieved a specified level of market share based on gross gaming revenue in the states in which the Sportsbook operates while branded "ESPN Bet", (iii) in certain circumstances if the other party or certain of its officers is the subject of a criminal or other investigation by federal or state authorities, is charged with certain crimes or commits certain other acts, including those which would reasonably be expected to cause material damage to the terminating party's reputation or brand or (iv) in certain circumstances involving non-compliance with data privacy laws. In addition, the ESPN Parties have the right to terminate the Sportsbook Agreement (i) a repeated material breach by PENN of the terms of the ESPN intellectual property license or an uncured material breach by PENN of the terms of the ESPN intellectual property license that results in material harm to the reputation or goodwill associated with the ESPN brand or name, (ii) in certain circumstances where PENN commits a material failure of specified product and technology guidelines or certain customer service level metrics, (iii) if at the end of year 3 or year 7 of the term the Sportsbook's market access is not at least a specified percentage of the total market access by the online sportsbook operator with the most expansive market access, subject to certain exceptions, (iv) if ESPN undergoes certain transactions involving a significant change in ownership of ESPN, subject to the payment of a termination fee to PENN or (v) in certain circumstances if PENN undergoes certain transactions involving a significant change in ownership of PENN, including such a transaction involving a competitor of The Walt Disney Company ("TWDC"). PENN has the right to terminate the Sportsbook Agreement (i) if ESPN undergoes certain transactions resulting in a significant change in ownership of ESPN involving a competitor of PENN, (ii) in certain circumstances related to the suitability of ESPN, TWDC or certain of their respective officers for gaming regulatory purposes or (iii) in certain circumstances if PENN is unable to utilize the ESPN Bet brand in states comprising a specified percentage of the aggregate population for all states in which PENN conducts online sports betting in the United States.

The Sportsbook Agreement also provides certain other operational terms, including, among other things, with respect to brand use, intellectual property ownership, usage, maintenance and defense, collaboration between the parties, regulatory compliance, on- and off-channel marketing, supply and attribution of sports betting odds, product development, responsible betting messaging and social responsibility, privacy and data security, the wind-down of the relationship following a termination, taxes and indemnification.

Investment Agreement

In connection with the transactions contemplated by the Sportsbook Agreement, on August 8, 2023, PENN and ESPN entered into an Investment Agreement (the "Investment Agreement") providing for the issuance to ESPN of certain warrants to purchase shares of common stock, par value $0.01 per share, of PENN ("Shares") and setting forth certain other governance rights of ESPN.

Pursuant to and subject to the terms of the Investment Agreement, on August 8, 2023, PENN issued to ESPN the following warrants: (i) a warrant to purchase 12,710,438 Shares with an expiration date of February 8, 2033 and an exercise price of $26.08 (the "Tranche A Warrant"), (ii) a warrant to purchase 12,803,726 Shares with an expiration date of February 8, 2034 and an exercise price of $29.99 (the "Tranche B Warrant"), and (iii) a warrant to purchase 6,314,670 Shares with an expiration date of February 8, 2035 and an exercise price of $32.60 (the "Tranche C Warrant", and together with the Tranche A Warrant and the Tranche B Warrant, the "Initial Warrants"). 2.5% of each Initial Warrant will vest on each November 8, February 8, May 8 and August 8 (excluding, for the avoidance of doubt, August 8, 2023), provided that any remaining unvested portion of the Tranche A Warrant will vest on August 8, 2032. If the Sportsbook Agreement is terminated due to an uncured material breach by PENN or an uncured material breach by PENN of the terms of the ESPN intellectual property license that results in material harm to the reputation or goodwill associated with the ESPN trademarks, then all unvested Initial Warrants will immediately vest. If the Sportsbook Agreement is terminated for any other reason, then all unvested Initial Warrants will immediately be forfeited; provided that if the Sportsbook Agreement is terminated on November 7, February 7, May 7 or August 7, all Initial Warrants scheduled to vest on the following day shall still vest as scheduled.

If after February 29, 2024 and during the term of the Sportsbook Agreement PENN achieves a six-month average market share based on gross gaming revenue in the states in which the Sportsbook operates while branded "ESPN Bet" ("Average Market Share") equal to 20.0% or more for three consecutive months, PENN will issue to ESPN a warrant to purchase 1,909,730 Shares (the "First Bonus Warrant"). If after February 29, 2024 and during the term of the Sportsbook Agreement PENN achieves an Average Market Share equal to 22.5% or more for three consecutive months, PENN will issue to ESPN a warrant to purchase 1,909,730 Shares (the "Second Bonus Warrant"). If after February 29, 2024 and during the term of the Sportsbook Agreement PENN achieves an Average Market Share equal to 25.0% or more for three consecutive months, PENN will issue to ESPN a warrant to purchase 2,546,307 Shares (the "Third Bonus Warrant", and together with the First Bonus Warrant and the Second Bonus Warrant, the "Bonus Warrants", and together with the Initial Warrants, the "Warrants"). Each Bonus Warrant will be fully vested upon issuance, have an exercise price of $28.95 and have an expiration date of the 126th month anniversary of the date of the issuance of such Bonus Warrant.

The Warrants will be exercised via net settlement (unless otherwise agreed by ESPN and PENN) and PENN will have the right to settle the exercise of the Warrants in cash, Shares or a combination thereof, in each case based on the volume weighted average price per Share for the 20 trading days preceding the exercise date. Prior to the receipt of any required shareholder approval, PENN will settle in cash any Shares issuable upon the exercise of any Warrant that would, in the aggregate, be more than 19.9% of the number of Shares outstanding immediately prior to the issuance of the Initial Warrants. The exercise price of the Warrants and the consideration issuable upon exercise of the Warrants are subject to customary adjustments, including in connection with (i) stock splits, subdivisions, reclassifications or combinations, (ii) issuances of Shares or securities exercisable or convertible into Shares without consideration or at a per share price less than the then-market price of Shares, subject to certain exceptions, (iii) dividends on Shares, (iv) business combinations and (v) certain repurchases of Shares.

The Warrants are subject to certain transfer restrictions, including that ESPN may not transfer any Warrants or Shares issued upon exercise of any Warrant (i) to any person that is known, after due inquiry, to be a competitor of PENN or who beneficially owns, after giving effect to such transfer, 9.9% or more of the outstanding Shares, or (ii) in an aggregate amount in excess of 2.5% of the then outstanding Shares in any calendar quarter, subject to certain exceptions. In addition, ESPN has agreed to certain standstill provisions and is prohibited from entering into any hedging or similar transactions with respect to any of the Warrants, the Shares or any other capital stock of PENN, in each case, subject to the terms and conditions set forth in the Investment Agreement.

ESPN will have the option to designate one non-voting observer (the "ESPN Board Observer") to the board of directors of PENN (the "PENN Board") to attend such portions of PENN Board meetings relating to PENN's interactive segment. In addition, at any time after August 8, 2026, ESPN will have the option to designate one director to the PENN Board (the "ESPN Director") in lieu of the ESPN Board Observer. ESPN's option to designate the ESPN Board Observer and the ESPN Director will terminate upon the earliest to occur of (i) ESPN or any of its affiliates becoming or acquiring control of a competitor of PENN and (ii) the termination or notice of termination of the Sportsbook Agreement. In addition, ESPN's option to designate the ESPN Director will terminate on the first day on which ESPN ceases to beneficially own Warrants or Shares that represent at least 80% of the total number of Shares underlying the Initial Warrants assuming full settlement in Shares and payment in cash of the exercise price. ESPN's option to designate the ESPN Board Observer and ESPN Director will be subject to compliance with applicable law, including applicable stock exchange rules and gaming laws.

The summary of the Investment Agreement and the Warrants in this Current Report on Form 8-K is qualified by reference to the full text of the Investment Agreement, which is included as Exhibit 4.1 to this Current Report on Form 8-K, and the Form of Warrant, which is included as Exhibit 4.2 to this Current Report on Form 8-K, each of which is incorporated herein by reference.

The Investment Agreement has been attached as an exhibit to this Current Report on Form 8-K in order to provide investors and security holders with information regarding its terms. It is not intended to provide any other information about PENN, ESPN or their respective subsidiaries and affiliates or to modify or supplement any factual disclosures about PENN in its public reports filed with the SEC. The representations, warranties and covenants contained in the Investment Agreement were made only for purposes of such agreement and as of specific dates, are solely for the benefit of the parties to the Investment Agreement, may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Investment Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the parties that differ from those applicable to investors or to PENN's SEC filings. Investors should not rely on the representations, warranties or covenants or any description thereof as characterizations of the actual state of facts or condition of PENN, ESPN or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Investment Agreement, which subsequent information may or may not be fully reflected in public disclosures by PENN, ESPN or their subsidiaries or affiliates.

Registration Rights Agreement

In connection with the issuance of the Initial Warrants, ESPN and PENN entered into a registration rights agreement (the "Registration Rights Agreement"), pursuant to which, among other things, ESPN received customary shelf and piggyback registration rights with respect to any Shares issued upon exercise of any Warrant.

The summary of the Registration Rights Agreement in this Current Report on Form 8-K is qualified by reference to the full text of the Registration Rights Agreement, which is included as Exhibit 4.3 to this Current Report on Form 8-K and incorporated herein by reference.

Barstool Divestiture

On August 8, 2023, PENN entered in a stock purchase agreement with David Portnoy (the "Barstool SPA") pursuant to which, among other things, PENN sold 100% of the outstanding shares of Barstool to David Portnoy in exchange for certain non-compete and other restrictive covenants. Pursuant to the Barstool SPA, PENN has the right to receive 50% of the gross proceeds received by David Portnoy in any subsequent sale or other monetization event of Barstool.

Forward Looking Statements

This Current Report on Form 8-K contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements can be identified by the use of forward-looking terminology such as "expects," "believes," "estimates," "projects," "intends," "plans," "goal," "seeks," "may," "will," "should," or "anticipates" or the negative or other variations of these or similar words, or by discussions of future events, strategies or risks and uncertainties. Specifically, forward-looking statements include, but are not limited to, statements regarding: the inclusion of a Hollywood-branded integrated iCasino product in the ESPN Bet Sportsbook; the integration of the ESPN Bet Sportsbook into the ESPN ecosystem; the benefits of the Sportsbook Agreement between the Company and ESPN; the benefit to ESPN Bet of the Company's experience, market access and technology platform; the expansion of the Company's digital footprint and growth of its customer ecosystem; the Company's expectations of future results of operations and financial condition, the assumptions provided regarding the guidance, including the scale and timing of the Company's product and technology investments; the Company's expectations regarding results, and the impact of competition, in retail/mobile/online sportsbooks, iCasino, social gaming, and retail operations; the Company's development and launch of its Interactive segment's products in new jurisdictions and enhancements to existing Interactive segment products, including the content for the ESPN Bet and theScore Bet Sportsbook and Casino apps and the expected timing of the rebrand of the Barstool Sportsbook as ESPN Bet on our proprietary player account management system and risk and trading platforms; the Company's expectations regarding its Sportsbook Agreement with ESPN and the future success of its products; and the Company's expectations with respect to the integration and synergies related to the Company's integration of theScore and the continued growth and monetization of the Company's media business.

Such statements are all subject to risks, uncertainties and changes in circumstances that could significantly affect the Company's future financial results and business. Accordingly, the Company cautions that the forward-looking statements contained herein are qualified by important factors that could cause actual results to differ materially from those reflected by such statements. Such factors include: the effects of economic and market conditions in the markets in which the Company operates; competition with other entertainment, sports content, and casino gaming experiences; the timing, cost and expected impact of product and technology investments; risks relating to international operations, permits, licenses, financings, approvals and other contingencies in connection with growth in new or existing jurisdictions; the Company may not be able to achieve the anticipated financial returns from the Sportsbook Agreement with ESPN, including due to fees, costs, taxes or circumstances beyond the Company's or ESPN's control; the rebranding of the Barstool Sportsbook as ESPN Bet or the inclusion of Hollywood-branded iCasino products may be delayed, or in certain jurisdictions may not occur at all, for reasons beyond our control, including due to any delays in the receipt of, or failure to receive, any required regulatory approvals; the ability to successfully integrate ESPN Bet, theScore and PENN's iCasino products and the costs and fees associated with such integrations; potential adverse reactions or changes to business or regulatory relationships resulting from the announcement or performance of the Sportsbook Agreement with ESPN or the divestiture of Barstool Sports; the occurrence of any event, change or other circumstances that could give rise to the right of one or both of the Company and ESPN to terminate the Sportsbook Agreement; liabilities, costs and fees in connection with the divestiture of Barstool Sports and the transition from the Barstool Sportsbook and other uses of intellectual property of Barstool Sports, including in the Company's retail locations; the ability of the Company and ESPN to agree to extend the initial 10-year term of the Sportsbook Agreement on mutually satisfactory terms, if at all, and the costs and obligations of such terms if agreed; the acceleration of the vesting of the warrants issued to ESPN in certain circumstances; the outcome of any legal proceedings that may be instituted against the Company, ESPN or their respective directors, officers or employees; the ability of the Company to retain and hire key personnel; the impact of new or changes in current laws, regulations, rules or other industry standards; and additional risks and uncertainties described in the Company's Annual Report on Form 10-K for the year ended December 31, 2022, subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, each as filed with the SEC. The Company does not intend to update publicly any forward-looking statements except as required by law. Considering these risks, uncertainties and assumptions, the forward-looking events discussed in this Current Report on Form 8-K may not occur.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits.*

Exhibit No.	Description
4.1	Investment Agreement, dated as of August 8, 2023, by and between PENN Entertainment, Inc. and ESPN, Inc.*
4.2	Form of Warrant
4.3	Registration Rights Agreement, dated as of August 8, 2023, by and between PENN Entertainment, Inc. and ESPN, Inc.
99.1	Press Release, dated August 8, 2023, issued by PENN Entertainment, Inc. (furnished under Item 7.01)
99.2	Investor Presentation, dated August 8, 2023 (furnished under Item 7.01)
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

*Annexes, schedules and/or exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K.

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.

Date: August 8, 2023

PENN Entertainment, Inc.

By: /s/ Christopher Rogers
Christopher Rogers
Executive Vice President, Chief Strategy Officer

Exhibit 4.1

EXECUTION VERSION

INVESTMENT AGREEMENT

by and between

PENN ENTERTAINMENT, INC.

and

ESPN, INC.

Dated as of August 8, 2023

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INVESTMENT AGREEMENT, dated as of August 8, 2023 (this "Agreement"), by and between PENN Entertainment, Inc., a Pennsylvania corporation (the "Company"), and ESPN, Inc., a Delaware corporation (the "Purchaser").

WHEREAS, concurrently with entry into this Agreement, the Company and the Purchaser are entering into that certain Sportsbook Agreement setting forth the terms and conditions of a relationship between the Company and the Purchaser with respect to sports betting (the "Commercial Agreement"); and

WHEREAS, in consideration for entry into the Commercial Agreement by the Purchaser and the performance of services by the Purchaser thereunder, the Company desires to issue and deliver to the Purchaser, and the Purchaser desires to receive from the Company, pursuant to the terms and conditions set forth in this Agreement, (a) at the Initial Closing, warrants to purchase 31,828,834 shares (subject to adjustment in accordance with the terms of such warrants) of Common Stock (subject to the Company's right, at its sole and absolute discretion, to effect settlement via a Total Cash Settlement or a Mixed Cash/Stock Settlement) in the form attached hereto as Annex I (the "Initial Warrants") and (b) following the Initial Closing, certain additional warrants to purchase shares (subject to adjustment in accordance with the terms of such warrants) of Common Stock (subject to the Company's right, at its sole and absolute discretion, to effect settlement via a Total Cash Settlement or a Mixed Cash/Stock Settlement) in the form attached hereto as Annex I if certain performance metrics set forth in this Agreement are met (the "Bonus Warrants", and, together with the Initial Warrants, the "Warrants", and the shares of Common Stock underlying the Warrants, the "Warrant Shares").

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE I

Definitions

Section 1.01 Definitions.

(a) As used in this Agreement (including the recitals hereto), the following terms shall have the following meanings:

"80% Beneficial Ownership Requirement" means, as of the applicable time of determination, that the Purchaser, TWDC or any of their respective Affiliates continue to beneficially own at all times outstanding Warrants and/or shares of Common Stock that represent in the aggregate and on an as exercised basis, at least 25,463,067 shares of Common Stock; provided that with respect to any outstanding Warrant, the holder of such Warrant will be deemed to beneficially own the number of Warrant Shares underlying the unexercised portion of such Warrant, whether or not vested, assuming that such Warrant is exercised via cash payment of the exercise price (and not pursuant to Section 2(c) of such Warrant) and settlement entirely in shares of Common Stock; provided, further, that any Warrants or shares of Common Stock that are beneficially owned by TWDC or any of its Subsidiaries shall be disregarded and no longer included in such calculation if the Purchaser is not a direct or indirect Subsidiary of TWDC; provided, however, that the parties may mutually agree to amend the definition of "80% Beneficial Ownership Requirement" in connection with the exercise of any Warrant (or a portion thereof) through a settlement method that is not contemplated by Section 2(c) of such Warrant (and, for the avoidance of doubt, any such settlement method shall be mutually agreed to by the parties in accordance with Section 2(b) of such Warrant).

"Action" means legal, regulatory or administrative proceeding, suit, investigation, arbitration or action.

"Affiliate" means with respect to any Person, another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person provided that the Company and its Subsidiaries shall not be deemed to be Affiliates of Purchaser or any of its Affiliates. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Average Market Share" means with respect to any Market Share Test Date, the percentage equal to (i) the aggregate sum of the Gross Gaming Revenue of the Sportsbook while branded as "ESPN Bet" reported by the Company to each Operational State Authority on or most recently prior to such Market Share Test Date *divided by* (ii) the aggregate sum of the total Gross Gaming Revenue of online sports betting from all operators published or reported by each Operational State Authority on or most recently prior to the Market Share Test Date.

Any Person shall be deemed to "beneficially own", or to have "beneficial ownership" of, any securities (which securities shall also be deemed "beneficially owned" by such Person) that such Person is deemed to "beneficially own" within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act; provided that any Person shall be deemed to beneficially own any securities that such Person has the right to acquire, whether or not such right is exercisable immediately.

"Board" means the board of directors of the Company.

"Business Day" means any day except a Saturday, a Sunday or other day on which the SEC or banks in the City of New York are authorized or required by Law to be closed.

"Change of Control" means the occurrence of one or more of the following, whether in a single transaction or a series of related transactions: (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), which as of the date of this Agreement is not the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Company's Voting Stock, is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Company's Voting Stock, in each case other than as a result of a transaction in which (A) the holders of securities that represented 100% of the Company's Voting Stock immediately prior to such transaction constitute the holders of securities that represent a majority of the voting power of the Voting Stock of the surviving Person or its parent entity immediately following such transaction or (B) the holders of securities that represented 100% of the Company's Voting Stock immediately prior to such transaction own directly or indirectly Voting Stock of the surviving Person or its parent entity in substantially the same proportion to each other as immediately prior to such transaction and (ii) the merger or consolidation of the Company with or into another Person or the merger of another Person with or into the Company, or the sale, transfer or lease of all or substantially all the assets of the Company (in each case, determined on a consolidated basis), to another Person, or any recapitalization, reclassification or other transaction in which all or substantially all of the Company's Voting Stock is exchanged for or converted into cash, securities or other property, other than a transaction following which (A) in the case of a merger or consolidation transaction, holders of securities that represented 100% of the Company's Voting Stock immediately prior to such transaction own directly or indirectly (in substantially the same proportion to each other as immediately prior to such transaction, other than changes in proportionality as a result of any cash/stock election provided under the terms of the definitive agreement regarding such transaction) at least a majority of the voting power of the Voting Stock of the surviving Person in such merger or consolidation transaction immediately after such transaction and (B) in the case of a sale, transfer or lease of all or substantially all of the assets of the Company, other than to a Subsidiary of the Company or a Person that becomes a Subsidiary of the Company.

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

"Common Stock" means the common stock, par value $0.01 per share, of the Company.

"Company Charter Documents" means the Company's certificate of incorporation and bylaws, each as amended.

"Competition Laws" means the HSR Act, the Sherman Antitrust Act of 1890, the Clayton Act of 1914, the Federal Trade Commission Act of 1914 (in each case, as amended), and any other federal, state, foreign, and transnational statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

"Competitor" means any Person with a principal line of business in Gaming Activities.

"Director Ownership Requirements" means any requirements pursuant to stock ownership guidelines applicable to the directors of the Company which require directors to own Common Stock or other securities of the Company.

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

"Exchangeable Shares" means the shares in the capital of 1317774 B.C. Ltd., a British Columbia corporation that were issued prior to the date of this Agreement in accordance with the TheScore Arrangement Agreement and are exchangeable for shares of Common Stock.

"Fall-Away of Purchaser Board Rights" means the earliest to occur of: (i) with respect to the Purchaser's right to appoint the Purchaser Director, the first day on which the 80% Beneficial Ownership Requirement is not satisfied, (ii) the Purchaser or any of its Affiliates becoming or acquiring control of a Competitor and (iii) the termination or notice of termination of the Commercial Agreement.

"Fraud" means actual and intentional fraud, it being understood and agreed that the term "Fraud" does not include the doctrine of constructive or equitable fraud.

"GAAP" means generally accepted accounting principles in the United States, consistently applied.

"Gaming Activities" means, collectively, (i) Sports Betting, (ii) iGaming and (iii) Retail Gaming. For purposes of clarity, free-to-play games are expressly excluded from this definition.

"Gaming Authorities" means any Governmental Authority with regulatory control and authority or jurisdiction over the conduct of Gaming Activities or the ownership, operation, management or development of any Gaming Activity operations.

"Gaming Law" means any Law or Judgment governing or relating to the conduct of Gaming Activities or the ownership, operation, management or development of any Gaming Activities, including the rules, regulations, policies, interpretations and orders of any Gaming Authority.

"Gaming Licenses" means all licenses, permits, approvals, orders, authorizations, registrations, findings of suitability, franchises, exemptions, waivers, concessions and entitlements issued by any Gaming Authority necessary for or relating to the conduct, operation or management of Gaming Activities by any Person or the ownership by any Person of any interest in an entity that conducts, operates or manages or may in the future conduct, operate or manage any Gaming Activities.

"Governmental Authority" means any government, court, regulatory or administrative agency, commission, arbitrator or authority or other legislative, executive or judicial governmental entity (in each case including any self-regulatory organization), whether federal, state or local, domestic, foreign, tribal or multinational.

"Gross Gaming Revenue" means the sum of all customer wagers (including the amount of all promotional credits wagered by such customers) minus all winnings paid to such customers on such wagers, or the most similar metric reported by a given Operational State Authority (i) during the six (6) most recent monthly reporting periods of such Operational State Authority immediately preceding the date of the applicable Market Share Test Date or, (ii) if the Sportsbook branded as "ESPN Bet" has been live for less than the six (6) most recent monthly reporting periods of such Operational State Authority, then such number of monthly reporting periods that the Sportsbook has been live in such Operational State.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"iGaming" has the meaning ascribed to such term in the Commercial Agreement.

"Interactive Segment" means the Company's interactive segment as of the date of this Agreement, and any segment to the extent that it succeeds to all or any portion of such segment.

"Investment Documents" means this Agreement, the Warrants and the Registration Rights Agreement.

"Judgment" means any order, judgment, injunction, ruling, writ, injunction or decree of any Governmental Authority.

"Knowledge" means, with respect to the Company, the actual knowledge of the individuals listed on Section 1.01(i) of the Company Disclosure Letter.

"Law" means all foreign, federal, tribal, state, county or local statute, law, ordinance, rule, regulation, permit, consent, approval, finding of suitability, license, authorization or other similar requirement enacted, adopted, promulgated, or applied by any Governmental Authority.

"Liens" means any mortgage, pledge, lien, charge, encumbrance, security interest or similar restriction.

"Lookback Date" means January 1, 2021.

"Market Share Test Date" shall mean the last day of each calendar month.

"Material Adverse Effect" means any effect, change, event or occurrence that has or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the business, results of operations or financial condition of the Company and its Subsidiaries, taken as a whole; provided that none of the following, and no effect, change, event or occurrence arising out of, or resulting from, the following, shall constitute or be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur: any effect, change, event or occurrence (A) generally affecting (1) the industries in which the Company and its Subsidiaries operate or (2) the economy, or credit, financial or capital markets, in the United States or elsewhere in the world, including changes in interest or exchange rates, or (B) to the extent arising out of, resulting from or related to (1) changes or prospective changes in Law or in GAAP or in accounting standards, or any changes or prospective changes in the interpretation or enforcement of any of the foregoing, or any changes or prospective changes in general legal, regulatory or political conditions, (2) the negotiation, execution or announcement of the Investment Documents, the Commercial Agreement or the consummation of the transactions contemplated therein (including the Transactions), including the impact thereof on relationships, contractual or otherwise, with customers, suppliers, vendors, partners, employees or regulators (provided that this clause (B)(2) shall not apply to any representations and warranties set forth in ARTICLE III to the extent the purpose thereof is to address the negotiation, execution or announcement of the Investment Documents, Commercial Agreement or the consummation of the transactions contemplated therein (including the Transactions)), (3) acts of war (whether or not declared), sabotage, terrorism, protests, insurrection, ransomware or malware, military activity, cybercrime, or any escalation or worsening of any such acts, (4) volcanoes, tsunamis, pandemics or disease outbreaks (including COVID-19), earthquakes, hurricanes, tornados or other natural disasters, (5) any action taken by the Company or its Subsidiaries that is required by this Agreement, any other Investment Document, the Commercial Agreement or at the Purchaser's express written request, (6) any change resulting or arising from the identity of, or any facts or circumstances relating to, the Purchaser or any of its Affiliates, (7) any change or prospective change in the Company's credit ratings, (8) any decline in the market price, or change in trading volume, of the capital stock of the Company or (9) any failure to meet any internal, external or public projections, forecasts, guidance, estimates, milestones, budgets or internal, external or published financial or operating predictions of revenue, earnings, cash flow or cash position (it being understood that the exceptions in the foregoing clauses (7), (8) and (9) shall not prevent or otherwise affect a determination that the underlying cause of any such change, decline or failure referred to therein (if not otherwise falling within any of the exceptions provided by the foregoing clause (A) and clauses (B)(1) through (6)) is a Material Adverse Effect); provided that any effect, change, event or occurrence referred to in the foregoing clause (A), (B)(1), (B)(3) or (B)(4) may be taken into account in determining whether there has been, or would reasonably be expected to be, individually or in the aggregate, a Material Adverse Effect to the extent such effect, change, event or occurrence has a disproportionate adverse effect on the business, results of operations or financial condition of the Company and its Subsidiaries, taken as a whole, as compared to other participants in the industries in which the Company and its Subsidiaries operate (in which case only the incremental disproportionate impact or impacts may be taken into account in determining whether there has been, or would reasonably be expected to be, a Material Adverse Effect).

"Mixed Cash/Stock Settlement" has the meaning ascribed to such term in the Warrant.

"Operational State" means each state where the Sportsbook is live and is branded "ESPN Bet" on the applicable Market Share Test Date during the Commercial Agreement Term.

"Operational State Authority" means the Gaming Authority of each Operational State.

"PBCL" means the Pennsylvania Business Corporation Law, as amended, supplemented or restated from time to time.

"Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or any other entity, including a Governmental Authority.

"Purchaser Designee" means an individual designated in writing by the Purchaser for (i) election to the Board or (ii) appointment as a non-voting observer, as the case may be, pursuant to Section 5.09.

"Purchaser Director" means a member of the Board who was appointed or elected to the Board as a Purchaser Designee.

"Purchaser Material Adverse Effect" means any effect, change, event or occurrence that would reasonably be expected to prevent or materially delay, interfere with, hinder or impair (i) the consummation by the Purchaser of any of the Transactions on a timely basis or (ii) the compliance by the Purchaser with its material obligations under any of the Investment Documents.

"Registration Rights Agreement" means that certain Registration Rights Agreement to be entered into by the Company and the Purchaser, the form of which is set forth as Annex II hereto.

"Representatives" means, with respect to any Person, its officers, directors, principals, partners, managers, members, employees, consultants, agents, financial advisors, investment bankers, attorneys, accountants, other advisors and other representatives.

"Retail Gaming" has the meaning ascribed to such term in the Commercial Agreement.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"SOX" means the Sarbanes-Oxley Act of 2002, as amended.

"Sports Betting" has the meaning ascribed to such term in the Commercial Agreement.

"Sportsbook" has the meaning ascribed to such term in the Commercial Agreement.

"Standstill Period" means the period beginning on the Initial Closing Date and ending on the earliest of (i) the date that is the latest of three (3) months after the date on which (x) no right to designate a Purchaser Director or a Purchaser Board Observer exists pursuant to Section 5.09, (y) no Purchaser Director or Purchaser Board Observer is serving on the Board and (z) Purchaser and its Affiliates do not beneficially own more than 4.9% of the then outstanding shares of Common Stock; (ii) the Company entering into a definitive written agreement to consummate a Change of Control; (iii) the commencement of a tender offer or exchange offer for a majority of the Common Stock (other than by the Company or its Subsidiaries) and the Company does not recommend against such tender offer or exchange offer within ten (10) Business Days following the commencement of such tender offer or exchange offer; (iv) the occurrence of a Change of Control of the Company and (v) the failure of the stockholders of the Company, upon a vote duly taken thereupon, to elect a Purchaser Director nominated in accordance with Section 5.09 and the Purchaser Director is not otherwise appointed or elected to the Board within ten (10) Business Days thereof.

"Subsidiary," when used with respect to any Person, means any corporation, limited liability company, partnership, association, trust or other entity of which (x) securities or other ownership interests representing fifty percent (50%) or more of the ordinary voting power (or, in the case of a partnership, fifty percent (50%) or more of the general partnership interests) or (y) sufficient voting rights to elect at least a majority of the board of directors or other governing body are, as of such date, owned by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

"Tax" means any federal, state, local or foreign tax, fee, levy, duty, tariff, impost and other similar charge imposed by any Governmental Authority, including any tax or other similar charge on or with respect to income, franchise, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation or net worth, excise, withholding, *ad valorem*, stamp, transfer or value added tax; license, registration and documentation fee; and customs duty, tariff and similar charge, in each case, together with any interest, penalty or addition to tax imposed by any Governmental Authority in respect thereof.

"TheScore Arrangement Agreement" means the Arrangement Agreement, dated as of August 4, 2021, as amended by Amendment No. 1, dated as of September 10, 2021, by and between Score Media and Gaming Inc., 1317774 B.C. Ltd. and the Company.

"Total Cash Settlement" has the meaning ascribed to such term in the Warrant.

"Total Stock Settlement" has the meaning ascribed to such term in the Warrant.

"Transactions" means the Initial Issuance, the Subsequent Issuances and the other transactions expressly contemplated by this Agreement and the other Investment Documents, including the exercise by the Purchaser of any Warrant.

"Transfer" by any Person means for such Person to, directly or indirectly, sell, transfer, assign, pledge, encumber, hypothecate or otherwise dispose of or transfer (by the operation of law or otherwise), either voluntarily or involuntarily, or to enter into any contract, option or other arrangement, agreement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or other disposition or transfer (by the operation of law or otherwise), of any interest (including any voting interest) in any securities beneficially owned by such Person; provided that, notwithstanding anything to the contrary in this Agreement, a "Transfer" shall not include: (i) the exercise of Warrants pursuant to their terms; (ii) the redemption or other acquisition of Common Stock or Warrants by the Company or (iii) the sale, transfer, assignment, pledge, encumbrance, hypothecation or other disposition or transfer of the equity securities of Purchaser, or any of its direct or indirect parent entities.

"TWDC" means The Walt Disney Company, a Delaware corporation.

"U.S. Person" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code or any successor provision thereof.

"Unsuitable Person" means a Person who (i) fails or refuses to file an application, or has withdrawn or requested the withdrawal of a pending application, to be found suitable by any Gaming Authority or for any Gaming License unless such request for withdrawal was granted by the relevant Gaming Authority, (ii) is denied or disqualified from eligibility for any Gaming License by any Gaming Authority, (iii) is determined by a Gaming Authority to be unsuitable or disqualified to own or control any shares of capital stock of the Company, (iv) is determined by a Gaming Authority to be unsuitable to be affiliated, associated or involved with a Person engaged in any Gaming Activities, (v) causes any Gaming License of the Company or any of its Subsidiaries, to be lost, rejected, rescinded, suspended, revoked or not renewed by any Gaming Authority or (vi) is deemed by the Board, in good faith, to reasonably be expected to (A) preclude or delay, impede, impair, threaten or jeopardize any Gaming License held by the Company or any of its Subsidiaries, or the Company's or any of its Subsidiaries', application for, right to the use of, entitlement to, or ability to obtain or retain, any Gaming License, or (B) cause or otherwise result in the imposition of any materially burdensome or unacceptable terms or conditions on any Gaming License of the Company or any of its Subsidiaries.

"Vendor Type Registration" has the meaning ascribed to such term in the Commercial Agreement.

"Voting Stock" means, with respect to any Person, all capital stock of such Person having the right to vote generally in any election of directors of the board of directors of such Person or other similar governing body.

"Warrant Consideration" has the meaning ascribed to such term in the Warrant.

(b) In addition to the terms defined in Section 1.01(a), the following terms have the meanings assigned thereto in the Sections set forth below:

Term	Section
ACT	5.08(a)
Agreement	Preamble
Announcement	5.03
Anti-Corruption Laws	3.12(b)
Anti-Takeover Provisions	3.13(a)
Average Market Share Report	2.02(d)
Balance Sheet Date	3.02
Bankruptcy and Equity Exception	3.04(a)
Bonus Warrants	Recitals
Commercial Agreement	Recitals
Commercial Agreement Term	2.02(a)
Company	Preamble
Company Disclosure Letter	Article III
Confidential Information	5.04
Convertible Notes	3.10
Director Indemnitors	5.09(i)
Disqualification Event	5.09(e)
Filed SEC Documents	Article III
First Bonus Warrant	2.02(a)
Infringe	3.15
Initial Closing	2.03(a)
Initial Closing Date	2.03(a)
Initial Issuance	2.03(a)
Initial Warrants	Recitals
IRS	2.03(b)(ii)
Measurement Date	3.10
Non-Recourse Party	6.06(b)
OFAC	3.12(c)
Permitted Purpose	5.04
Purchaser	Preamble
Purchaser Board Observer	5.09(a)
Sanctions	3.12(c)
Second Bonus Warrant	2.02(b)
Subsequent Closing	2.04
Subsequent Issuance	2.04
Third Bonus Warrant	2.02(c)
Tranche A Warrant	2.01(a)
Tranche B Warrant	2.01(b)
Tranche C Warrant	2.01(c)
Transfer Tax	5.14(c)
Warrant Shares	Recitals
Warrants	Recitals

ARTICLE II

Initial Warrants; Bonus Warrants; Closing; Vesting

Section 2.01 Initial Warrants. The Initial Warrants shall be issued as three (3) separate Warrants in accordance with Section 2.03 with the following terms:

(a) Tranche A Warrant. The Company shall issue and deliver to the Purchaser a Warrant to purchase 12,710,438 shares (subject to adjustment in accordance with the terms of such Warrant) of Common Stock with an expiration date of February 8, 2033 and an initial exercise price of $26.08 (the "Tranche A Warrant").

(b) Tranche B Warrant. The Company shall issue and deliver to the Purchaser a Warrant to purchase 12,803,726 shares (subject to adjustment in accordance with the terms of such Warrant) of Common Stock with an expiration date of February 8, 2034 and an initial exercise price of $29.99 (the "Tranche B Warrant").

(c) Tranche C Warrant. The Company shall issue and deliver to the Purchaser a Warrant to purchase 6,314,670 shares (subject to adjustment in accordance with the terms of such Warrant) of Common Stock with an expiration date of February 8, 2035 and an initial exercise price of $32.60 (the "Tranche C Warrant").

Section 2.02 Bonus Warrants.

(a) First Bonus Warrant. If after February 29, 2024 and during the term of the Commercial Agreement (the "Commercial Agreement Term") (or at such time provided in Section 2.05(b)) the Company achieves an Average Market Share as reported pursuant to Section 2.02(d) equal to 20.0% or more for three (3) consecutive months, the Company shall issue and deliver to the Purchaser in accordance with Section 2.04 a Bonus Warrant to purchase 1,909,730 shares (subject to adjustment in accordance with the terms of such Bonus Warrant) of Common Stock with an expiration date of the one-hundred-and-twenty-six (126)-month anniversary of the date of issuance of such Bonus Warrant and an initial exercise price of $28.95 (the "First Bonus Warrant").

(b) Second Bonus Warrant. If after February 29, 2024 and during the Commercial Agreement Term (or at such time provided in Section 2.05(b)) the Company achieves an Average Market Share as reported pursuant to Section 2.02(d) equal to 22.5% or more for three (3) consecutive months, the Company shall issue and deliver to the Purchaser in accordance with Section 2.04 a Bonus Warrant to purchase 1,909,730 shares (subject to adjustment in accordance with the terms of such Bonus Warrant) of Common Stock with an expiration date of the one-hundred-and-twenty-six (126)-month anniversary of the date of issuance of such Bonus Warrant and an initial exercise price of $28.95 (the "Second Bonus Warrant").

(c) Third Bonus Warrant. If after February 29, 2024 and during the Commercial Agreement Term (or at such time provided in Section 2.05(b)) the Company achieves an Average Market Share as reported pursuant to Section 2.02(d) equal to 25.0% or more for three (3) consecutive months, the Company shall issue and deliver to the Purchaser in accordance with Section 2.04 a Bonus Warrant to purchase 2,546,307 shares (subject to adjustment in accordance with the terms of such Bonus Warrant) of Common Stock with an expiration date of the one-hundred-and-twenty-six (126)-month anniversary of the date of issuance of such Bonus Warrant and an initial exercise price of $28.95 (the "Third Bonus Warrant").

(d) Average Market Share Reporting. Commencing on February 29, 2024, no later than ten (10) days following each Market Share Test Date, the Company shall provide the Purchaser with a calculation of the Average Market Share (the "Average Market Share Report"). If any Operational State Authority ceases to report Gross Gaming Revenue, the parties hereto shall negotiate in good faith to agree on an alternative basis to calculate the Average Market Share for such jurisdiction so as to effect the original intent of this Section 2.02 as closely as possible.

Section 2.03 Initial Closing.

(a) On the terms of this Agreement, the closing (the "Initial Closing") of the issuance of the Initial Warrants (the "Initial Issuance") shall occur on the date hereof (the "Initial Closing Date"), simultaneously with the execution of this Agreement, at the offices of Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, New York 10019 or remotely by exchange of documents and signatures (or their electronic counterparts).

(b) At the Initial Closing:

(i) the Company shall deliver to the Purchaser (1) the Initial Warrants free and clear of all Liens, except restrictions on transfer imposed by the Company Charter Documents, the Securities Act, the Initial Warrants, Section 5.07 and any applicable securities Laws and (2) the Registration Rights Agreement, duly executed by the Company; and

(ii) the Purchaser shall (1) deliver to the Company the Registration Rights Agreement, duly executed by the Purchaser and (2) deliver to the Company a duly executed, valid, accurate and properly completed Internal Revenue Service ("IRS") Form W-9 from the Purchaser, certifying that such Purchaser is a U.S. Person.

Section 2.04 Subsequent Closings. On the terms of this Agreement, the closing (each, a "Subsequent Closing") of the issuance of any Bonus Warrant (each, a "Subsequent Issuance") shall occur on the fifth (5th) Business Day following the date on which the Purchaser receives the Average Market Share Report indicating that the applicable Average Market Share threshold was satisfied at the offices of Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, New York 10019 or remotely by exchange of documents and signatures (or their electronic counterparts). At any Subsequent Closing, the Company shall deliver to the Purchaser the applicable Bonus Warrants free and clear of all Liens, except restrictions on transfer imposed by the Company Charter Documents, the Securities Act, the Bonus Warrants, Section 5.07 and any applicable securities Laws. At each Subsequent Closing, the Purchaser shall deliver to the Company a duly executed, valid, accurate and properly completed IRS Form W-9 from the Purchaser, certifying that such Purchaser is a U.S. Person.

Section 2.05 Vesting.

(a) Initial Warrant. The Initial Warrants shall be entirely unvested as of the Initial Closing. 2.5% of each Initial Warrant shall vest on each November 8, February 8, May 8 and August 8 (excluding, for the avoidance of doubt, August 8, 2023); provided that any remaining unvested portion of the Tranche A Warrant shall vest on August 8, 2032. Notwithstanding the foregoing, (i) if the Commercial Agreement is terminated by the Purchaser pursuant to Section 19(A) or 19(B)(2) of the Commercial Agreement (the date of termination of the Commercial Agreement for any reason, the "Commercial Agreement Termination Date"), then all unvested Initial Warrants shall immediately vest upon such termination and as of the Commercial Agreement Termination Date and (ii) if the Commercial Agreement terminates for any reason other than the circumstance described in clause (i), then the unvested portion of the Initial Warrants as of the Commercial Agreement Termination Date shall immediately and automatically be forfeited and canceled for no consideration without any further action required by the Company or the Purchaser; provided that if the Commercial Agreement terminates on November 7, February 7, May 7 or August 7, all Initial Warrants scheduled to vest on the following day shall still vest as scheduled.

(b) Bonus Warrant. Each Bonus Warrant shall be fully vested upon issuance. Notwithstanding anything to the contrary set forth in Section 2.02, if the Commercial Agreement terminates for any reason and if the Purchaser has earned any Bonus Warrant(s) pursuant to Section 2.02 with respect to any Market Share Test Date preceding the Commercial Agreement Termination Date but the applicable Subsequent Closing has not yet occurred, the Company shall issue such Bonus Warrant(s) to the Purchaser in accordance with Section 2.04 notwithstanding the termination of the Commercial Agreement and, for the avoidance of doubt, such Bonus Warrant(s) shall be deemed fully vested upon issuance.

(c) Exercise. All Warrants shall be exercisable in accordance with the terms of such Warrant to the extent, and only to the extent, vested. The holder of any Warrant shall not have the right to exercise a Warrant with respect to the unvested portion of such Warrant and the Company shall have no obligation to issue or transfer, and the holder of each Warrant shall have no right to receive, the unvested portion of any Warrant Consideration underlying any Warrants.

ARTICLE III

Representations and Warranties of the Company

The Company represents and warrants to the Purchaser as of the date hereof (except to the extent made only as of a specified date or period, in which case such representation and warranty is made as of such date or period) that, except as (A) set forth in the confidential disclosure letter delivered by the Company to the Purchaser prior to the execution of this Agreement (the "Company Disclosure Letter") (it being understood that any information, item or matter set forth on one section or subsection of the Company Disclosure Letter shall be deemed disclosed with respect to, and shall be deemed to apply to and qualify, the section or subsection of this Agreement to which it corresponds in number and each other section or subsection of this Agreement to the extent that it is reasonably apparent on the face of such disclosure that such information, item or matter is relevant to such other section or subsection) or (B) disclosed in any report, schedule, form, statement or other document (including exhibits) filed by the Company with, or publicly furnished by the Company to, the SEC and publicly available on or after the Lookback Date and prior to the date hereof (collectively, the "Filed SEC Documents"), other than any risk factor or similar disclosures in any such Filed SEC Document contained in the "Risk Factors" or "Forward-Looking Statements" section or any forward-looking statements within the meaning of the Securities Act or the Exchange Act thereof:

Section 3.01 SEC Documents; Undisclosed Liabilities; Internal Controls.

(a) The Company has filed with the SEC, on a timely basis, all reports, schedules, forms, statements and other documents required to be filed by the Company with the SEC pursuant to the Exchange Act since the Lookback Date (collectively, the "Company SEC Documents"). As of their respective SEC filing dates (or, if amended prior to the date hereof, the date of the filing of such amendment, with respect to the disclosures that are amended), the Company SEC Documents complied as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act or SOX (and the regulations promulgated thereunder), as the case may be, applicable to such Company SEC Documents, and none of the Company SEC Documents as of such respective dates (or, if amended prior to the date hereof, the date of the filing of such amendment, with respect to the disclosures that are amended) 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 light of the circumstances under which they were made, not misleading. As of the date hereof, no event since the Lookback Date giving rise to an obligation to file (or furnish) a report under Form 8-K with the SEC has occurred as to which the time period for making such filing has not yet expired or as to which the applicable Form 8-K has not been publicly filed or furnished (unless such event has otherwise been disclosed to the Purchaser in writing prior to the date hereof).

(b) The financial statements and the related notes thereto included or incorporated by reference in each of the Filed SEC Documents comply in all material respects with the applicable requirements of the Securities Act, the Exchange Act and SOX, as applicable, and present fairly in all material respects the financial position of the Company and its Subsidiaries as of the dates indicated and the results of their operations and the cash flows for the periods specified; such financial statements have been prepared in conformity in all material respects with GAAP applied on a consistent basis throughout the periods covered thereby, except as may be expressly stated in the related notes thereto or, in the case of unaudited financial statements, as permitted by the SEC and its rules and regulations.

(c) None of the Company or any of its Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar agreement or arrangement, where the result, purpose or intended effect of such agreement or arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, the Company or any of its Subsidiaries in the Filed SEC Documents (including the financial statements included therein). Except as disclosed in Filed SEC Documents, neither the Company nor any of its Subsidiaries is a party to, or has any commitment to become a party to, any "off balance sheet arrangement" within the meaning of Item 303 of Regulation S-K promulgated under the Securities Act.

(d) Neither the Company nor any of its Subsidiaries has any liabilities of any nature (whether accrued, absolute, contingent or otherwise) that would be required under GAAP to be reflected on a consolidated balance sheet of the Company (including the notes thereto), except liabilities (i) reflected, reserved against or otherwise included or disclosed in the balance sheet (or the notes thereto) of the Company and its Subsidiaries as of December 31, 2022 (the "Balance Sheet Date") included in the Filed SEC Documents, (ii) incurred after the Balance Sheet Date in the ordinary course of business, (iii) as expressly contemplated by this Agreement or otherwise incurred in connection with the Transactions, (iv) that have been discharged or paid prior to the date of this Agreement or (v) as would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of any of the transactions contemplated hereby.

(e) The Company has designed a system of internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) as required by the Exchange Act. The Company (i) has designed disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) to provide reasonable assurance that material 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 SEC's rules, regulations and forms, and is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure and (ii) has disclosed, based on its most recent evaluation of internal control over financial reporting, to the Company's outside auditors and the Audit Committee of the Board (x) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

(f) Since the Lookback Date, any material change in internal control over financial reporting required to be disclosed in any Filed SEC Document has been so disclosed.

Section 3.02 Absence of Certain Changes. Since the Balance Sheet Date, through the date of this Agreement, there has not been any Material Adverse Effect.

Section 3.03 Organization; Standing.

(a) The Company is a corporation duly organized and validly existing under the Laws of the Commonwealth of Pennsylvania, is in good standing in the Commonwealth of Pennsylvania and has all requisite corporate power and corporate authority necessary to carry on its business as it is now being conducted. The Company is duly licensed or qualified to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions. True and complete copies of the Company Charter Documents of the Company are included in the Filed SEC Documents.

(b) Each of the Company's Subsidiaries is duly organized, validly existing and in good standing (where such concept is recognized under applicable Law) under the Laws of the jurisdiction of its organization, and is duly licensed or qualified to transact business as a foreign corporation in each jurisdiction in which the conduct of its business requires such licensing or qualification, in each case except where the failure would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions.

Section 3.04 Authority; Noncontravention.

(a) The Company has all necessary corporate power and corporate authority to execute and deliver this Agreement and the other Investment Documents and to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by the Company of this Agreement and the other Investment Documents, and the consummation by it of the Transactions, have been duly authorized by the Board and no other corporate action on the part of the Company or its shareholders (except to the extent approval of the Company's shareholders is required under applicable NASDAQ rules and regulations for the issuance of any Warrant Shares) is necessary to authorize the execution, delivery and performance by the Company of this Agreement and the other Investment Documents and the consummation by it of the Transactions. This Agreement and the other Investment Documents have been duly executed and delivered by the Company and, assuming due authorization, execution and delivery hereof and thereof by the Purchaser, constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (i) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors' rights generally and (ii) is subject to general principles of equity, whether considered in a proceeding at law or in equity (the "Bankruptcy and Equity Exception").

(b) Neither the execution and delivery of this Agreement or the other Investment Documents by the Company, nor the consummation by the Company of the Transactions, nor performance or compliance by the Company with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the Company Charter Documents, (ii) violate any Law or Judgment applicable to the Company or any of its Subsidiaries or (iii) violate or constitute a default (or constitute an event which, with notice or lapse of time or both, would violate or constitute a default) under any of the terms or provisions of any loan or credit agreement, indenture, debenture, note, bond, mortgage, deed of trust, lease, sublease, license, contract or other agreement (each, a "Contract"), to which the Company or any of its Subsidiaries is a party or, with or without notice, lapse of time or both, accelerate or increase in any material respect the Company's or, if applicable, any of its Subsidiaries', obligations under any such Contract, result in the loss of a material benefit of the Company or its Subsidiaries under any such Contract, or give rise to a right of termination under any such Contract, except, in the case of clause (ii), any required filings or approvals under Gaming Law, the HSR Act or any other Competition Laws, or NASDAQ rules prior to the issuance of any Warrant Shares upon the exercise of any Warrant in accordance with its terms and, in the case of clauses (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to (x) have a Material Adverse Effect or (y) prevent or materially delay the consummation of the Transactions.

Section 3.05 Governmental Approvals. Except for (a) filings required under, and compliance with other applicable requirements of, applicable Competition Laws prior to the issuance of any Warrant Shares upon the exercise of any Warrant in accordance with its terms, (b) compliance with any applicable state securities or blue sky Laws and (c) compliance with applicable Gaming Laws, no consent or approval of, or filing, license, permit or authorization, declaration or registration with, any Governmental Authority is necessary for the execution and delivery of this Agreement and the other Investment Documents by the Company, the performance by the Company of its obligations hereunder and thereunder and the consummation by the Company of the Transactions, other than such other consents, approvals, filings, licenses, permits or authorizations, declarations or registrations that, if not obtained, made or given, would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions.

Section 3.06 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of the Company or any of its Subsidiaries, except for Persons, if any, whose fees and expenses will be paid by the Company or its Subsidiaries.

Section 3.07 Sale of Warrants. Assuming the accuracy of the representations and warranties set forth in Section 4.07, the issuance of the Warrants pursuant to this Agreement is exempt from the registration and prospectus delivery requirements of the Securities Act and the rules and regulations thereunder. Without limiting the foregoing, neither the Company nor, to the Knowledge of the Company, any other Person authorized by the Company to act on its behalf, has engaged in a general solicitation or general advertising (within the meaning of Regulation D of the Securities Act) of investors with respect to offers or sales of the Warrants, and neither the Company nor, to the Knowledge of the Company, any Person acting on its behalf has made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the offering or issuance of the Warrants under this Agreement to be integrated with prior offerings by the Company for purposes of the Securities Act that would result in none of Regulation D or any other applicable exemption from registration under the Securities Act to be available, nor will the Company take any action or step that would cause the offering or issuance of the Warrants under this Agreement to be integrated with other offerings by the Company.

Section 3.08 Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) of the Exchange Act and listed on The NASDAQ Global Select Market, and the Company has taken no action designed to, or which, to the Knowledge of the Company, is reasonably likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act or delisting the Common Stock from The NASDAQ Global Select Market, nor has the Company received as of the date of this Agreement any notification that the SEC or The NASDAQ Global Select Market is contemplating terminating such registration or listing.

Section 3.09 Status of Securities. As of the Initial Closing, the shares of Common Stock potentially issuable upon exercise of the Warrants will be, if and when issued, duly authorized by all necessary corporate action on the part of the Company, legally issued, fully paid and non-assessable and issued in compliance with all applicable federal and state securities Laws and will not be subject to any preemptive or similar rights of any other shareholder of the Company, will be free from all taxes and charges (other than income and franchise taxes incurred in connection with the exercise of the Warrants or taxes in respect of any transfer occurring contemporaneously therewith) and will be free and clear of all Liens, except restrictions imposed by the Securities Act, Section 5.07 and any applicable securities Laws.

Section 3.10 Capitalization.

(a) The Company has an authorized capitalization as of the date of this Agreement consisting of 401,000,000 shares, all with a par value of $0.01 per share, consisting of (i) 400,000,000 shares of Common Stock and (ii) 1,000,000 shares of preferred stock. As of August 4, 2023 (the "Measurement Date"), (a) 150,476,958 shares of Common Stock were issued and outstanding, (b) 353.8 shares of preferred stock were issued and outstanding, (c) 13,870,000 shares of Common Stock were reserved for issuance pursuant to the Company's equity plans and/or equity awards, (d) 560,388 Exchangeable Shares were issued and outstanding and (e) 18,360,815 shares of Common Stock were reserved for issuance upon conversion of the Company's 2.75% convertible senior notes due 2026 (the "Convertible Notes"). Except as set forth in this Section 3.10 and other than the shares of Common Stock that have become outstanding after the Measurement Date that were reserved for issuance as set forth above: (i) the Company does not have any shares of capital stock of, or other equity or voting interests in, the Company issued or outstanding and (ii) there are no outstanding obligations, subscriptions, options, warrants, puts, calls, rights, phantom equity, exchangeable or convertible securities or other similar rights, agreements or commitments or any other contract, agreement, instrument or arrangement to which the Company or any of its Subsidiaries is a party or is otherwise bound obligating the Company or any of its Subsidiaries to (A) issue, transfer or sell, or cause to be issued, transferred or sold or make any payment with respect to, any shares of capital stock of, or other equity or voting interests in, the Company or any of its Subsidiaries or securities or instruments convertible into, exchangeable for or exercisable for, or that correspond to, such shares, or other equity or voting interests in, the Company, (B) grant, extend or enter into any such obligation, subscription, option, warrant, put, call, right, phantom equity, exchangeable or convertible securities or other similar right, agreement or commitment, (C) redeem or otherwise acquire any such shares of capital stock of, or other equity or voting interests in, the Company or (D) provide any amount of funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any Subsidiary of the Company that is not wholly owned or in any other Person. None of the Company or any of its Subsidiaries has outstanding bonds, debentures, notes or other similar obligations, the holders of which have the right to vote (or which are convertible into or exercisable for securities having the right to vote) with the stockholders of the Company on any matter other than the Convertible Notes.

(b) There are no outstanding obligations of the Company or any of its Subsidiaries (1) restricting the transfer of, (2) affecting the voting rights of, (3) requiring the repurchase, redemption or disposition of, or containing any right of first refusal, right of first offer or similar right with respect to, (4) requiring the registration for sale of or (5) granting any preemptive or anti-dilutive rights with respect to, any shares of capital stock of, or other equity or voting interests in, the Company or any of its Subsidiaries. All the outstanding shares of capital stock and other equity or voting interests in the Company and each of its Subsidiaries: (i) have been duly and validly authorized and issued, are fully paid and non-assessable (to the extent applicable), (ii) were not issued in violation of any preemptive or anti-dilutive rights, charter or bylaws or similar organizational documents of the Company or any applicable Law and (iii) with respect to outstanding shares of capital stock and other equity or voting interests in each Subsidiary of the Company, are owned directly or indirectly by the Company, except, (x) with respect to this clause (iii), 317774 B.C. Ltd., a British Columbia corporation, with respect to the Exchangeable Shares and, (y) with respect to outstanding shares of capital stock of, or other equity or voting interests in, each Subsidiary of the Company, where the failure to be so authorized and issued, fully paid and non-assessable, owned directly or indirectly by the Company could not reasonably be expected to, individually or in the aggregate, (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of any of the Transactions. No Subsidiary of the Company owns any shares of capital stock of, or other equity or voting interests in, the Company. Other than as disclosed in the Filed SEC Documents, there are no voting trusts or other agreements, commitments or understandings to which the Company or any of its Subsidiaries is a party with respect to the voting of the capital stock of, or other equity or voting interests in, the Company or any of its Subsidiaries.

Section 3.11 Litigation. There is no, and since the Lookback Date there has not been any, Action pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries before any court or arbitrator or any Governmental Authority, except as, individually or in the aggregate, would not reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions.

Section 3.12 Compliance with Laws; Approvals.

(a) The Company and each of its Subsidiaries are and since the Lookback Date have been, in compliance with all Laws and Judgments, in each case, that are applicable to the Company or any of its Subsidiaries or their respective assets, properties or businesses, except as would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions. Each of the Company and its Subsidiaries holds all Gaming Licenses and other licenses, franchises, permits, certificates, approvals and authorizations from Governmental Authorities necessary for the lawful conduct of their respective businesses, except where the failure to hold the same would not, individually or in the aggregate, reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of any of the Transactions.

(b) The Company, each of its Subsidiaries, and each of their officers, directors, employees and, to the Knowledge of the Company, agents acting on their behalf is, and since the Lookback Date has been, in compliance in all material respects with (x) the Foreign Corrupt Practices Act of 1977 and any rules and regulations promulgated thereunder, as applicable and (y) any other applicable Law applicable to the Company and its Subsidiaries that address the prevention of corruption, bribery, terrorism, money laundering, fraud or other improper payments (the "Anti-Corruption Laws"), in each case (x) and (y) except as would not, individually or in the aggregate, reasonably be expected to be material to the Company and its Subsidiaries taken as a whole. None of the Company, any of its Subsidiaries or any director, officer, or, to the Knowledge of the Company, any agent, employee or other person associated with or acting on behalf of the Company or its Subsidiaries, has since the Lookback Date (i) made, offered, promised or authorized any unlawful contribution, gift, entertainment or other unlawful expense; (ii) made, offered, promised or authorized any direct or indirect unlawful payment or (iii) violated or is in violation of any provision of any Anti-Corruption Laws, in each case (i), (ii) and (iii) except as would not, individually or in the aggregate, reasonably be expected to be material to the Company and its Subsidiaries taken as a whole.

(c) The Company, each of its Subsidiaries, and each of their officers, directors, employees and, to the Knowledge of the Company, agents acting on their behalf is, and, since the Lookback Date has been, in compliance with all applicable Law or other financial restrictions administered by the Office of Foreign Assets Control of the United States Treasury Department ("OFAC"), including OFAC's Specially Designated Nationals and Blocked Persons List, the U.S. Department of State or other relevant sanctions authority (collectively, "Sanctions"), in each case except as would not, individually or in the aggregate, reasonably be expected to be material to the Company and its Subsidiaries taken as a whole. None of the Company or any of its Subsidiaries, or any director, officer, or to the Knowledge of the Company, agent, or employee of the Company or any of its Subsidiaries is currently the subject or the target of any Sanctions, nor is the Company or any of its Subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions, including, without limitation, Cuba, Iran, North Korea, Syria and the Crimea region of Ukraine. The Company and its Subsidiaries have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, compliance with all applicable Anti-Corruption Laws and Sanctions. No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any its Subsidiaries with respect to Anti-Corruption Laws or Sanctions is pending or, to the Knowledge of the Company, threatened, in each case except as would not, individually or in the aggregate, reasonably be expected to be material to the Company and its Subsidiaries taken as a whole.

Section 3.13 Anti-Takeover Provisions and No Rights Plan.

(a) The actions taken by the Board to approve this Agreement, the other Investment Documents and the transactions contemplated hereby and thereby constitute all the action necessary to render inapplicable to this Agreement, the other Investment Documents and the other transactions contemplated hereby and thereby, including any share of Common Stock that may be acquired by the Purchaser upon the exercise of the Warrants, the provisions of any potentially applicable antitakeover, control share, fair price, moratorium, interested stockholder or similar Law and any potentially applicable provision of the charter or bylaws or similar organizational documents of the Company or any of its Subsidiaries (collectively, the "Anti-Takeover Provisions").

(b) Neither the Company nor any of its Subsidiaries has any "poison pill" or similar stockholder rights plan or agreement in effect as of the date hereof.

Section 3.14 Tax Matters. Except as, individually or in the aggregate, would not reasonably be expected to (i) have a Material Adverse Effect or (ii) prevent or materially delay the consummation of the Transactions: (a) the Company each of its Subsidiaries have prepared (or caused to be prepared) and timely filed (taking into account valid extensions of time within which to file) all Tax returns required to be filed by any of them, and all such filed Tax returns (taking into account all amendments thereto) are true, complete and accurate, (b) all Taxes imposed on the Company and each of its Subsidiaries that are due (whether or not shown on any Tax return) have been timely paid except for Taxes which are being contested in good faith by appropriate proceedings and which have been adequately reserved against in accordance with GAAP, (c) no examination or audit of any Tax return of the Company or any of its Subsidiaries or with respect to any Taxes of the Company or any of its Subsidiaries by any Governmental Authority is currently in progress or has been threatened in writing and (d) none of the Company or any of its Subsidiaries has engaged in any "listed transaction" within the meaning of U.S. Treasury Regulations Section 1.6011-4(b)(2).

Section 3.15 Intellectual Property; Security. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or prevent or materially delay the consummation of any of the Transactions, (a) the conduct of the businesses of the Company and each of its Subsidiaries do not infringe, misappropriate or otherwise violate ("Infringe"), and since the Lookback Date have not Infringed, the intellectual property rights of any Person, (b) to the Knowledge of the Company, no Person is Infringing or challenging or threatening to challenge the ownership, use, validity or enforceability of any intellectual property owned by the Company or any of its Subsidiaries and (c)since the Lookback Date, there have been no breaches, outages or violations of or unauthorized accesses to the software and systems of the Company and its Subsidiaries (except for those that were resolved without material cost, liability or the duty to notify any Governmental Authority).

Section 3.16 No Other Representations or Warranties. Except for the representations and warranties made by the Company in this ARTICLE III, neither the Company nor any other Person acting on its behalf makes any other express or implied representation or warranty with respect to the Warrants, the Common Stock, the Company or any of its Subsidiaries or their respective businesses, operations, properties, assets, liabilities, condition (financial or otherwise) or prospects, notwithstanding the delivery or disclosure to the Purchaser or any of its Representatives of any documentation, forecasts or other information with respect to any one or more of the foregoing, and the Purchaser acknowledges the foregoing. In particular, and without limiting the generality of the foregoing, except for the representations and warranties made by the Company in this ARTICLE III, neither the Company nor any other Person makes or has made any express or implied representation or warranty to the Purchaser or any of its Representatives with respect to (a) any financial projection, forecast, estimate, budget or prospect information relating to the Company, any of its Subsidiaries or their respective businesses or (b) any oral or written information presented to the Purchaser or any of its Representatives in the course of its due diligence investigation of the Company, the negotiation of this Agreement or the course of the Transactions or any other transactions or potential transactions involving the Company and the Purchaser.

Section 3.17 No Other Purchaser Representations or Warranties. Except for the representations and warranties expressly set forth in ARTICLE IV, the Company hereby acknowledges that neither the Purchaser nor any other Person (a) has made or is making any other express or implied representation or warranty with respect to the Purchaser or any of its Affiliates or their respective businesses, operations, assets, liabilities, condition (financial or otherwise) or prospects, including with respect to any information provided or made available to the Company or any of its Representatives or any information developed by the Company or any of its Representatives or (b) except in the case of Fraud in connection with the representations and warranties expressly set forth in ARTICLE IV, will have or be subject to any liability or indemnification obligation to the Company resulting from the delivery, dissemination or any other distribution to the Company or any of its Representatives, or the use by the Company or any of its Representatives, of any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material developed by or provided or made available to the Company or any of its Representatives, including in due diligence materials, in anticipation or contemplation of any of the Transactions or any other transactions or potential transactions involving the Company and the Purchaser. The Company, on behalf of itself and on behalf of its Subsidiaries, expressly waives any such claim relating to the foregoing matters, except with respect to Fraud in connection with the representations and warranties expressly set forth in ARTICLE IV.

ARTICLE IV

Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Company, as of the date hereof:

Section 4.01 Organization; Standing. The Purchaser is a corporation duly organized and validly existing under the Laws of the State of Delaware, is in good standing under the Laws of the State of Delaware, and is a U.S. Person, and the Purchaser has all requisite power and authority necessary to carry on its business as it is now being conducted and is duly licensed or qualified to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Purchaser Material Adverse Effect.

Section 4.02 Authority; Noncontravention. (a) The Purchaser has all necessary power and authority to execute and deliver this Agreement and the other Investment Documents, to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by the Purchaser of this Agreement and the other Investment Documents and the consummation by the Purchaser of the Transactions have been duly authorized and approved by all necessary action on the part of the Purchaser, and no further action, approval or authorization by any of its shareholders, partners, members or other equity owners, as the case may be, is necessary to authorize the execution, delivery and performance by the Purchaser of this Agreement and the other Investment Documents and the consummation by the Purchaser of the Transactions. This Agreement has been duly executed and delivered by the Purchaser and, assuming due authorization, execution and delivery hereof by the Company, constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms, subject to the Bankruptcy and Equity Exception. Neither the execution and delivery of this Agreement or the other Investment Documents by the Purchaser, nor the consummation of the Transactions by the Purchaser, nor performance or compliance by the Purchaser with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the certificate or articles of incorporation, bylaws or other comparable charter or organizational documents of the Purchaser or (ii) violate any Law or Judgment applicable to the Purchaser or any of its Subsidiaries, except, in the case of this clause (ii), as would not, individually or in the aggregate, reasonably be expected to have a Purchaser Material Adverse Effect.

Section 4.03 Governmental Approvals. Except for (a) filings required under, and compliance with other applicable requirements of, applicable Competition Laws prior to the issuance of any Warrant Shares upon the exercise of any Warrant in accordance with its terms and (b) compliance with applicable Gaming Laws, no consent or approval of, or filing, license, permit or authorization, declaration or registration with, any Governmental Authority is necessary for the execution and delivery of this Agreement and the other Investment Documents by the Purchaser, the performance by the Purchaser of its obligations hereunder and thereunder and the consummation by the Purchaser of the Transactions, other than such other consents, approvals, filings, licenses, permits, authorizations, declarations or registrations that, if not obtained, made or given, would not, individually or in the aggregate, reasonably be expected to have a Purchaser Material Adverse Effect.

Section 4.04 Ownership of Company Stock. None of the Purchaser or any of its Affiliates owns any capital stock or other securities of the Company.

Section 4.05 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of the Purchaser or any of its Affiliates, except for Persons, if any, whose fees and expenses will be paid by the Purchaser.

Section 4.06 Non-Reliance on Company Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans. In connection with the due diligence investigation of the Company by the Purchaser and its Representatives, the Purchaser and its Representatives have received and may continue to receive from the Company and its Representatives certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information containing such information, regarding the Company and its Subsidiaries and their respective businesses and operations. The Purchaser hereby acknowledges that there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans, with which the Purchaser is familiar, that the Purchaser is making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts and other forward-looking information, as well as such business plans, so furnished to the Purchaser (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information or business plans), and that except for Fraud in connection with the representations and warranties expressly set forth in ARTICLE III, the Purchaser will have no claim against the Company or any of its Subsidiaries, or any of their respective Representatives, with respect thereto.

Section 4.07 Purchase for Investment. The Purchaser acknowledges that the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants have not been registered under the Securities Act or under any state or other applicable securities Laws. The Purchaser (a) acknowledges that it is acquiring the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants pursuant to an exemption from registration under the Securities Act solely for investment with no intention to distribute any of the foregoing to any Person, (b) will not sell, transfer, or otherwise dispose of any of the Warrants or the Common Stock issuable upon the exercise of the Warrants, except in compliance with this Agreement and the registration requirements of the Securities Act (or any exemption therefrom) and any other applicable securities Laws, (c) is a sophisticated institutional investor with extensive knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of its investment in the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants and of making an informed investment decision, (d) is an "accredited investor" (as that term is defined by Rule 501 of the Securities Act), and (e) (1) has been furnished with or has had full access to all the information that it considers necessary or appropriate to make an informed investment decision with respect to the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants, (2) has had an opportunity to discuss with the Company and its Representatives the intended business and financial affairs of the Company and to obtain information necessary to verify any information furnished to it or to which it had access and (3) can bear the economic risk of (i) an investment in the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants indefinitely and (ii) a total loss in respect of such investment. The Purchaser has such knowledge and experience in business and financial matters so as to enable it to understand and evaluate the risks of, and form an investment decision with respect to its investment in, the Warrants and the Common Stock potentially issuable upon the exercise of the Warrants, and to protect its own interest in connection with such investment.

Section 4.08 No Other Company Representations or Warranties. Except for the representations and warranties expressly set forth in ARTICLE III, the Purchaser hereby acknowledges that neither the Company nor any of its Subsidiaries, nor any other Person, (a) has made or is making any other express or implied representation or warranty with respect to the Company or any of its Subsidiaries or their respective businesses, operations, assets, liabilities, condition (financial or otherwise) or prospects, including with respect to any information provided or made available to the Purchaser or any of its Representatives or any information developed by the Purchaser or any of its Representatives or (b) except in the case of Fraud in connection with the representations and warranties expressly set forth in ARTICLE III, will have or be subject to any liability or indemnification obligation to the Purchaser resulting from the delivery, dissemination or any other distribution to the Purchaser or any of its Representatives, or the use by the Purchaser or any of its Representatives, of any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material developed by or provided or made available to the Purchaser or any of its Representatives, including in due diligence materials, "data rooms" or management presentations (formal or informal), in anticipation or contemplation of any of the Transactions or any other transactions or potential transactions involving the Company and the Purchaser. The Purchaser, on behalf of itself and on behalf of its Affiliates, expressly waives any such claim relating to the foregoing matters, except with respect to Fraud in connection with the representations and warranties expressly set forth in ARTICLE III. The Purchaser hereby acknowledges (for itself and on behalf of its Affiliates and Representatives) that it has conducted, to its satisfaction, its own independent investigation of the business, operations, assets and financial condition of the Company and its Subsidiaries and its own in-depth analysis of the merits and risks of the Transactions in making its investment decision and, in making its determination to proceed with the Transactions, the Purchaser and its Affiliates and Representatives have relied on the results of their own independent investigation and analysis.

Section 4.09 No Other Purchaser Representations or Warranties. Except for the representations and warranties made by the Purchaser in this ARTICLE IV, neither the Purchaser nor any other Person acting on its behalf makes any other express or implied representation or warranty with respect to the Purchaser or any of its Subsidiaries or their respective businesses, operations, properties, assets, liabilities, condition (financial or otherwise) or prospects, notwithstanding the delivery or disclosure to the Company or any of its Representatives of any documentation, forecasts or other information with respect to any one or more of the foregoing, and the Company acknowledges the foregoing. In particular, and without limiting the generality of the foregoing, except for the representations and warranties made by the Purchaser in this ARTICLE IV, neither the Purchaser nor any other Person makes or has made any express or implied representation or warranty to the Company or any of its Representatives with respect to (a) any financial projection, forecast, estimate, budget or prospect information relating to the Purchaser, any of its Subsidiaries or their respective businesses or (b) any oral or written information presented to the Company or any of its Representatives in the course of its due diligence investigation of the Purchaser, the negotiation of this Agreement or the course of the Transactions or any other transactions or potential transactions involving the Company and the Purchaser.

ARTICLE V

Additional Agreements

Section 5.01 Regulatory Filings and Consents.

(a) The Company and the Purchaser acknowledge that one or more filings, notifications, expirations or terminations of waiting periods, waivers, authorizations, approvals, permits, consents, clearances, rulings, findings of suitability or orders under applicable Competition Laws or Gaming Laws may be necessary in connection with, and prior to, the issuance of shares of Common Stock upon exercise of the Warrants in accordance with their terms. The Purchaser will promptly notify the Company if any such filing, notification, expiration or termination of a waiting period, waiver, authorization, approval, permit, consent, clearance, ruling, finding of suitability or order is required in connection with any such exercise. To the extent requested by the Purchaser, the Company shall, and shall cause its Affiliates to use reasonable best efforts to obtain all consents, approvals, authorizations or waivers of Governmental Authorities necessary, proper or advisable to consummate the transactions contemplated hereby or by the Warrants (including the exercise of such Warrants) as soon as reasonably practicable; provided that, subject to the Company's compliance with its obligations under this Agreement and the Warrants, the Company shall not have any responsibility or liability for failure of the Purchaser or any of its Affiliates to comply with any applicable Competition Law or Gaming Law or to obtain any required consents, expirations or terminations, waivers, authorizations, approvals, permits, consents, clearances, rulings, findings of suitability or orders. The Purchaser and the Company shall each be responsible for the payment of one-half of all filing fees associated with any such applications or filings (provided, that if the application or filing would not have been required in connection with the applicable exercise of Warrants had the Purchaser and its Affiliates beneficially owned only Warrants acquired under this Agreement (or Warrant Shares issued upon exercise of Warrants), the Purchaser shall be responsible for 100% of such filing fees).

(b) Each of the Company and the Purchaser shall consult with one another with respect to the obtaining of all consents, approvals, authorizations or waivers of Governmental Authorities necessary, proper or advisable to consummate the transactions contemplated hereby or by the Warrants (including the exercise of the Warrants) and each party shall keep the other party apprised on a prompt basis of the status of matters relating to such consents, approvals, authorizations or waivers. The Company and the Purchaser shall have the right to review in advance and subject to any restrictions under applicable Law, each shall consult the other on, any filing made with, or written materials submitted to, any Governmental Authority in connection with the transactions contemplated hereby or by the Warrants (including the exercise of the Warrants) and each party agrees to in good faith consider and reasonably accept comments of the other party thereon. The Company and the Purchaser shall promptly furnish to each other copies of all such filings and written materials; provided, however, that each party may, as it deems advisable and necessary, redact materials to protect competitively sensitive information or information concerning valuation, or as necessary to address reasonable attorney client, attorney work product or other privilege concerns and reasonably designate any competitively sensitive material provided to the other parties under this Section 5.01(b) as "outside counsel only" (such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and will not be disclosed by such outside counsel to employees, officers, or directors of the recipient, unless written permission is obtained in advance from the party providing the materials). The Company and the Purchaser shall promptly advise each other upon receiving any communication from any Governmental Authority with respect to any consent, approval, authorization or waiver that is required to consummate the transactions contemplated hereby or by the Warrants (including the exercise of the Warrants), including promptly furnishing each other copies of any written or electronic communication and shall promptly advise each other when any such communication causes such party to believe that there is a reasonable likelihood that any such consent, approval, authorization or waiver will not be obtained or that the receipt of any such consent, approval, authorization or waiver will be materially delayed or conditioned. Except to the extent relating to or, in the such party's reasonable determination, reasonably likely to relate to any Gaming Licenses or applications for Gaming Licenses by the Company or its Affiliates, or by the Purchaser or its Affiliates, or any calls or communications initiated by any Gaming Authorities to the Company or its Affiliates or the Purchaser or its Affiliates, as applicable, the Company shall not, and shall cause its Affiliates not to, and the Purchaser shall not, and shall cause its Affiliates not to, permit any of their respective directors, officers, employees, or any other Representatives to participate in any meeting (whether in-person, by telephone, video meeting, or otherwise) with any Governmental Authority in respect of any filings, investigation or other inquiry relating to the transactions contemplated hereby or by the Warrants (including the exercise of such Warrants) unless it consults with the other in advance and gives the other party the reasonable opportunity to attend and participate thereat (unless such attendance is prohibited by the applicable Governmental Authority).

(c) Notwithstanding anything in this Agreement to the contrary, if at any time (i) the terms of the Investment Documents, (ii) the Purchaser's receipt or holding of the Warrants or (iii) after the Purchaser represents in good faith that it intends to exercise any Warrant no less than thirty (30) days from the date of such representation in a sufficient amount to trigger the requirement for such Gaming Licenses, the Purchaser's receipt or holding of the Warrant Shares in such amount, would reasonably be anticipated to result in the Purchaser or its Affiliates being required to obtain a level of Gaming Licenses that is more burdensome or robust in any material respect than that of a Vendor Type Registration, as reasonably determined by the Purchaser, the parties shall negotiate in good faith to agree on a fair and reasonable modification or exchange of such Warrants, Warrant Shares or the terms of the Investment Documents to such extent as is necessary to obviate the requirement to obtain such Gaming Licenses.

Section 5.02 Corporate Actions. At any time that the Warrants remain outstanding, the Company shall from time to time take all lawful action within its control to cause the authorized capital stock of the Company to include a sufficient number of authorized but unissued shares of Common Stock to satisfy the exercise requirements of the Warrants then outstanding.

Section 5.03 Public Disclosure. The Purchaser and the Company shall consult with each other before issuing, and give each other the opportunity to review and comment upon, any press release or other public statements with respect to the Investment Documents or the Transactions, and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable Law, Judgment, court process or the rules and regulations of any national securities exchange or national securities quotation system. The Purchaser and the Company agree that the initial press release to be issued with respect to the Transactions following execution of this Agreement shall be in the form mutually agreed by the parties (the "Announcement"). Notwithstanding the foregoing, this Section 5.03 shall not apply to any press release or other public statement made by the Company or the Purchaser (a) that is consistent with the Announcement and does not contain any information relating to the Transactions that has not been previously announced or made public in accordance with the terms of this Agreement or (b) is made in the ordinary course of business and does not relate specifically to the signing of the Investment Documents, the Commercial Agreement or the Transactions.

Section 5.04 Confidentiality. The Purchaser will, and will cause its Affiliates and their respective Representatives to, keep confidential any information (including oral, written and electronic information) concerning the Company, its Subsidiaries or its Affiliates that may be furnished to the Purchaser, its Affiliates or its or their respective Representatives by or on behalf of the Company or any of its Representatives pursuant to (x) this Agreement or any other Investment Document, including any such information provided pursuant to Section 5.09(f) or Section 5.09(i) or (y) pursuant to the non-disclosure agreement, effective as of January 1, 2023, by and between ESPN Enterprises, Inc. and the Company (the information referred to in clauses (x) and (y), collectively referred to as the "Confidential Information") and to use the Confidential Information solely for the purposes of monitoring, administering or managing the Purchaser's investment in the Company made pursuant to this Agreement (a "Permitted Purpose"); provided that the Confidential Information shall not include information that (i) was or becomes available to the public other than as a result of a disclosure by the Purchaser, any of its Affiliates or any of their respective Representatives in violation of this Section 5.04 or any other duty or contractual obligation to the Company or any of its Affiliates, (ii) was or becomes available to the Purchaser, any of its Affiliates or any of their respective Representatives on a non-confidential basis from a source other than the Company or its Representatives; provided that such source was not, to the Purchaser's knowledge, subject to any legally binding obligation (whether by agreement or otherwise) to keep such information confidential, (iii) at the time of disclosure is already in the possession of the Purchaser, any of its Affiliates or any of their respective Representatives; provided that such information is not, to the Purchaser's knowledge, subject to any legally binding obligation (whether by agreement or otherwise) to keep such information confidential, or (iv) is independently developed by the Purchaser, any of its Affiliates or any of their respective Representatives without reference to, incorporation of, reliance on or other use of any Confidential Information. The Purchaser agrees, on behalf of itself and its Affiliates and its and their respective Representatives, that Confidential Information may be disclosed solely (i) to the Purchaser's Affiliates and its and their respective Representatives to the extent required for a Permitted Purpose, and in any event shall not be shared with any such Representative who has an employment, advisory, agency, director or officer relationship with a Competitor, (ii) to its shareholders, limited partners, members or other owners, as the case may be, regarding the general status of its investment in the Company (without disclosing specific confidential information), (iii) if the Company ceases to have any securities registered under the Exchange Act, to prospective transferees of the Warrants and respective Representatives pursuant to customary confidentiality arrangements in a form reasonably satisfactory to the Company, and (iv) in the event that the Purchaser, any of its Affiliates or any of its or their respective Representatives are requested or required by applicable Law, Judgment, stock exchange rule or other applicable judicial or governmental process (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, in each of which instances the Purchaser, its Affiliates and its and their respective Representatives, as the case may be, shall, to the extent legally permitted, provide notice to the Company so that the Company will have a reasonable opportunity to timely seek to limit, condition or quash such disclosure at the Company's sole cost and expense (in which case the Purchaser shall use reasonable efforts to assist the Company in this respect) and the Purchaser, its Affiliates and its and their respective Representatives, as applicable, shall then be permitted to disclose only that portion of the Confidential Information that is legally required to be disclosed.

Section 5.05 NASDAQ Listing of Shares. Assuming a Total Stock Settlement or Mixed Cash/Stock Settlement, the Company shall promptly apply to cause the aggregate number of Warrant Shares (after giving effect to Section 2(a)(ii) of the Warrants) issuable under the Initial Warrants to be approved for listing on The NASDAQ Global Select Market, subject to official notice of issuance. From time to time following the Initial Closing Date, the Company shall cause the number of Warrant Shares then issuable upon exercise of the then outstanding Warrants (assuming a Total Stock Settlement or Mixed Cash/Stock Settlement) to be approved for listing on The NASDAQ Global Select Market, subject to official notice of issuance, or such other primary exchange as to which the Common Stock is then admitted for trading.

Section 5.06 Standstill. The Purchaser agrees that during the Standstill Period, without the prior written approval of the Board (excluding the Purchaser Director), the Purchaser will not, directly or indirectly, and will cause its Affiliates not to:

(a) acquire, offer or seek to acquire, agree to acquire or make a proposal to acquire, by purchase or otherwise, any securities or direct or indirect rights to acquire any securities of the Company or any of its Affiliates, any securities convertible into or exchangeable for any such securities or any indebtedness of the Company and its Subsidiaries (but in any case excluding (i) issuances by the Company of shares of Company Common Stock or options, warrants or other rights to acquire Common Stock (or the exercise thereof) to the Purchaser Director as compensation for their membership on the Board, (ii) issuances by the Company of Warrant Shares pursuant to any exercise of the Warrants in accordance with their terms and (iii) acquisitions of shares of Common Stock so long as Purchaser and its Affiliates collectively beneficially own less than 15.0% of the outstanding shares of Common Stock; provided that for purposes of this clause (iii) Purchaser shall be deemed to beneficially own all Warrant Shares underlying all outstanding Warrants, whether or not vested, assuming that all outstanding Warrants are exercised via cash payment of the exercise price (and not pursuant to Section 2(c) of the Warrant) and settlement entirely in shares of Common Stock);

(b) make or in any way encourage or participate in any "solicitation" of "proxies" (whether or not relating to the election or removal of directors), as such terms are used in the rules of the SEC, to vote, or knowingly seek to advise or influence any Person with respect to voting of, any voting securities of the Company or any of its Subsidiaries, or call or seek to call a meeting of the Company's shareholders or initiate any shareholder proposal for action by the Company's shareholders, or other than with respect to the Purchaser Director, seek election to or to place a representative on the Board or seek the removal of any director from the Board;

(c) make any public announcement with respect to, or publicly offer, seek, propose or publicly indicate an interest in (in each case with or without conditions), any merger, consolidation, business combination, tender or exchange offer, recapitalization, reorganization or purchase of any material assets of the Company or its Subsidiaries, or any other extraordinary transaction involving the Company or any Subsidiary of the Company or any of their respective securities, or enter into any discussions, negotiations, arrangements, understandings or agreements (whether written or oral) with any other Person regarding any of the foregoing; provided that the Purchaser may make confidential proposals to the Board regarding mergers, consolidations or other business combinations with the Company or a purchase of any of the Company's material assets so long as such proposals would not reasonably be expected to require any public disclosure by any Person;

(d) otherwise act, alone or in concert with others, to control or seek to control management or the board of directors, or the policies of the Company or any of its Subsidiaries (other than the Purchaser Director acting in his or her capacity as a member of the Board or voting at a meeting of the Company's shareholders);

(e) make any public proposal or statement of inquiry or disclose any intention, plan or arrangement inconsistent with any of the foregoing;

(f) knowingly advise, knowingly assist, knowingly encourage or direct any Person to do, or to knowingly advise, knowingly assist, knowingly encourage or direct any other Person to do, any of the foregoing;

(g) take any action that would or would reasonably be expected to require the Company to make a public announcement regarding the possibility of a transaction or any of the events described in this Section 5.06;

(h) enter into any discussions, negotiations, communications, arrangements or understandings with any third party (including security holders of the Company) with respect to any of the foregoing, including, without limitation, forming, joining or in any way participating in a "group" (as defined in Section 13(d)(3) of the Exchange Act) with any third party with respect to the Company or any of its Subsidiaries or any securities of the Company or of any of its Subsidiaries or otherwise in connection with any of the foregoing;

(i) request the Company or any of its Representatives, directly or indirectly, to amend or waive any provision of this Section 5.06; or

(j) contest the validity of this Section 5.06 or make, initiate, take or participate in any demand, Action (legal or otherwise) or proposal to amend, waive or terminate any provision of this Section 5.06;

provided that (x) nothing in this Section 5.06 will limit the ability of (1) the Purchaser to vote any voting securities of the Company or any of its Subsidiaries in the Purchaser's sole discretion; (2) the Purchaser to communicate directly on a non-public basis with any executive officer of the Company or any member of the Board (so long as the manner or content of any such communication would not reasonably be expected to require any public disclosure by any Person) or (3) the Purchaser Director to vote or otherwise exercise his or her legal duties in his or her capacity as a member of the Board and (y) this Section 5.06 shall not apply to pension funds and retirement plans of the Purchaser, The Walt Disney Company or any of their respective Subsidiaries so long as such pension fund or retirement plan is not acting at the direction of or otherwise in concert with the Purchaser, The Walt Disney Company or any of their respective Subsidiaries.

Section 5.07 Transfer Restrictions.

(a) Subject to Sections 5.01, 5.07(b), 5.07(c), 5.07(d), 5.07(e) and 5.07(f) and, in the case of any Warrant, the terms and conditions of such Warrant, the Purchaser shall be permitted to Transfer any portion or all of the Warrants or Warrant Shares, at any time.

(b) Notwithstanding Section 5.07(a), the Purchaser shall not at any time (without the prior written consent of the Board (excluding the Purchaser Director)) Transfer any Warrants (or any portion thereof) or Warrant Shares:

(i) to any Person that is known by the Purchaser, after due inquiry, to be (1) a Competitor, or (2) a Person or "group" (as defined in Section 13(d)(3) of the Exchange Act) of Persons who would beneficially own, after giving effect to such proposed Transfer, 9.9% or more of the Common Stock then outstanding; or

(ii) in an aggregate amount in excess of 2.5% of the Common Stock then outstanding in any calendar quarter (in the case of a Transfer of a Warrant, based on the number of Warrant Shares issuable upon exercise of the Warrant assuming exercise via cash payment of the exercise price (and not pursuant to Section 2(c) of the Warrant) and settlement entirely in shares of Common Stock); provided that this Section 5.07(b)(ii) shall not restrict any Transfer that is required (but solely to the extent of such requirement) to reduce the Purchaser's ownership interest in the Company's shares of Common Stock to a level sufficient to enable the Purchaser to avoid the need to obtain any required Gaming License or approval, consent or authorization under any Gaming Law;

provided that nothing in this Section 5.07(b) will restrict (x) the ability of the Purchaser to Transfer any portion or all of the Warrants or Warrant Shares to any of the Purchaser's Affiliates, subject to compliance with applicable Law and Section 5.07(c) or to the Company or any of its Subsidiaries or (y) any Transfer into the public market pursuant to a broadly distributed underwritten public offering made pursuant to the Registration Rights Agreement.

(c) Notwithstanding Section 5.07(a), prior to any Transfer to any Affiliate of the Purchaser, the transferee shall agree in writing prior to such Transfer for the express benefit of the Company (in form and substance reasonably satisfactory to the Company and with a copy thereof to be furnished to the Company) to be bound by the terms of this Agreement, including all terms, conditions and obligations applicable to the Purchaser, and the transferee and the transferor shall agree in writing prior to such Transfer for the express benefit of the Company (in form and substance reasonably satisfactory to the Company and with a copy thereof to be furnished to the Company) that the transferee shall Transfer the Warrants and/or Warrant Shares so Transferred back to the transferor at or before such time as the transferee ceases to be an Affiliate of the transferor.

(d) Notwithstanding Section 5.07(a), the Purchaser shall not make any short sale of, grant any option for the purchase of, or enter into any sale, repurchase agreement, other monetization transaction, swap, short sale, forward, option, hedging or other transaction or arrangement which would result in reducing or eliminating the economic consequences of ownership of any Warrants or any shares of Common Stock or any other capital stock of the Company, or otherwise establish or increase, directly or indirectly, a put equivalent position, as defined in Rule 16a-1(h) under the Exchange Act, with respect to any of the Warrants, the Common Stock or any other capital stock of the Company.

(e) Any Transfer of any Warrant or Warrant Shares shall be subject to and conditional upon the prior making and receipt of any and all filings, notifications, expirations or terminations of waiting periods, waivers, authorizations, approvals, permits, consents, clearances, rulings, findings of suitability or orders under any applicable Competition Laws and Gaming Laws, and any and all Gaming Licenses, in each case necessary in connection with the Transfer of the Warrant or Warrant Shares.

(f) The Purchaser acknowledges that it will not offer, sell or otherwise dispose of any Warrant or Warrant Shares except pursuant to an effective registration statement, or an exemption from registration, under the Securities Act and any applicable state securities Laws.

(g) Any Transfer or attempted Transfer in violation of this Section 5.07 shall be null and void *ab initio*, and the Company shall not, and shall instruct its transfer agent and other third parties not to, record or recognize any such purported transaction on the share register or other books and records of the Company.

Section 5.08 Legend. (a) All certificates or other instruments representing the Warrants or Warrant Shares will bear a legend substantially to the following effect:

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE SUBJECT TO TRANSFER AND OTHER RESTRICTIONS SET FORTH IN AN INVESTMENT AGREEMENT, DATED AS OF AUGUST 8, 2023, AND WARRANT INSTRUMENT, DATED AS OF [_____], COPIES OF WHICH ARE ON FILE WITH THE SECRETARY OF THE ISSUER.

(b) Upon request of the Purchaser and receipt by the Company of an opinion of counsel reasonably satisfactory to the Company to the effect that such legend is no longer required under the Securities Act and applicable state securities Laws, the Company shall promptly cause the first paragraph of the legend to be removed from any certificate or other instrument for any Warrant or Common Stock to be Transferred in accordance with the terms of this Agreement and the second paragraph of the legend shall be removed upon the expiration of such transfer and other restrictions set forth in this Agreement.

Section 5.09 Director and Observer Rights.

(a) Subject to Section 5.09(e), at the written request of the Purchaser prior to the Fall-Away of Purchaser Board Rights and if as of such time no Purchaser Director is then in office, the Board shall take all action necessary to cause one (1) Purchaser Designee to be appointed as a non-voting observer of the Board (the "Purchaser Board Observer"). Subject to Section 5.09(e), the Purchaser Board Observer shall be permitted to attend, strictly as an observer, such portions of the meetings of the Board relating to the Interactive Segment, and notices of all regular and special meetings of the Board relating to the Interactive Segment and material information (including notices, minutes, consents and other materials) delivered to the Board relating to the Interactive Segment shall be delivered to the Purchaser Board Observer at substantially the same time as delivered to other non-executive directors. The Purchaser Board Observer shall not have any voting rights with respect to any matters considered or determined by the Board or any committee thereof, or be entitled to receive any compensation or reimbursement of expenses in his or her capacity as Purchaser Board Observer. Any action taken by the Board at any meeting will not be invalidated by the absence of the Purchaser Board Observer at such meeting.

(b) Subject to Section 5.09(e), at the written request of the Purchaser following August 8, 2026 and prior to the Fall-Away of Purchaser Board Rights and in lieu of the Purchaser Board Observer, the Board shall take all action necessary to cause one (1) Purchaser Designee to be appointed as a member of the Board as promptly as reasonably practicable following such request. Subject to Section 5.09(e) and until the occurrence of the Fall-Away of Purchaser Board Rights, at each annual meeting of the Company's shareholders, the Company will at the written request of the Purchaser nominate and use its reasonable best efforts to cause the election to the Board of a slate of directors that includes one Purchaser Designee.

(c) Upon the appointment or election of the Purchaser Director, the Purchaser Board Observer shall immediately resign, and the Purchaser shall cause the Purchaser Board Observer to immediately resign, as a non-voting observer. Upon the occurrence of the Fall-Away of Purchaser Board Rights and unless otherwise requested in writing by the Company in its sole and absolute discretion, the Purchaser Director or the Purchaser Board Observer, as applicable, shall immediately resign, and the Purchaser shall cause the Purchaser Director or the Purchaser Board Observer, as applicable, to immediately resign, from the Board (or as a non-voting observer, as applicable) effective as of the date of the Fall-Away of Purchaser Board Rights, and the Purchaser shall no longer have any rights under this Section 5.09, including, any designation and/or nomination rights under Section 5.09(a) or Section 5.09(b).

(d) Each Purchaser Director and Purchaser Board Observer shall deliver to the Company an irrevocable letter of resignation resigning automatically and without further action upon (i) delivery of a request for resignation by the Purchaser, (ii) the Fall-Away of Purchaser Board Rights or (iii) a Disqualification Event (as defined below). Until the occurrence of the Fall-Away of Purchaser Board Rights, in the event of the death, disability, resignation or removal of the Purchaser Director as a member of the Board or of the Purchaser Board Observer as non-voting observer to the Board (other than on account of the appointment or election of the Purchaser Director), the Purchaser may designate a Purchaser Designee to replace such Purchaser Director or Purchaser Board Observer (as applicable) and, subject to Section 5.09(e) and any applicable provisions of the PBCL, the Company shall take such action as is necessary to cause such Purchaser Designee to be appointed to the Board or as the Purchaser Board Observer, as applicable.

(e) The Company's obligations with respect to the Purchaser Director and the Purchaser Board Observer pursuant to this Section 5.09 shall in each case be subject to (i) such Purchaser Designee's and such Purchaser Director or Purchaser Board Observer's (as applicable) satisfaction of all requirements regarding service as a director of the Company under applicable Law and stock exchange rules regarding service as a director of the Company and all other criteria and qualifications for service as a director applicable to all non-executive directors of the Company, (ii) such Purchaser Designee and such Purchaser Director or Purchaser Board Observer (as applicable) meeting all independence requirements of The NASDAQ Global Select Market (other than heightened committee standards); (iii) such Purchaser Designee and Purchaser Director or Purchaser Board Observer (as applicable) not being or becoming a Representative of a Competitor; and (iv) the making and receipt of any and all filings, notifications, expirations of waiting periods, waivers, authorizations, approvals, permits, consents, rulings, findings of suitability or orders required under any applicable Gaming Law and the receipt of any and all required Gaming Licenses. The Purchaser will cause each Purchaser Designee to make himself or herself reasonably available for interviews and to consent to such reference and background checks or other investigations as any Gaming Authority may request or the Board may reasonably request in order to determine such Purchaser Designee's eligibility and qualification to serve or continue to serve as contemplated hereunder. No Purchaser Designee shall be eligible to serve as a director or board observer if he or she (x) is an Unsuitable Person, (y) has been involved in any of the events enumerated under Item 2(d) or (e) of Schedule 13D under the Exchange Act or Item 401(f), other than Item 401(f)(1), of Regulation S-K under the Securities Act or (z) is subject to any Judgment prohibiting service as a director of any public company. In the event that a Purchaser Director or a or Purchaser Board Observer no longer satisfies all the requirements set forth in (1) the immediately preceding sentence and (2) the first sentence of this Section 5.09(e) (a "Disqualification Event"), the Purchaser Director or Purchaser Board Observer (as applicable) shall immediately resign, and the Purchaser shall immediately cause the Purchaser Director or Purchaser Board Observer (as applicable) to resign, from the Board (or as a non-voting observer, as applicable) effective immediately, and the Purchaser shall be entitled to designate a new Purchaser Director or Purchaser Board Observer (as applicable), subject to the terms of this Section 5.09.

(f) The Purchaser Director shall be entitled to attend all regular and special meetings of the Board and all regular and special meetings of the committees of the Board (for the avoidance of doubt, in the case of the Purchaser Director's attendance at meetings of the committees of the Board, in the capacity as an observer and not as a member of such committee); provided that the Purchaser Director shall not be entitled to attend any meeting of a committee of the Board whose sole mandate is to consider any contract or transaction between the Company and its Subsidiaries, on the one hand, and the Purchaser or any of its Affiliates, on the other hand. The Company shall notify the Purchaser Director, as applicable, of all such regular and special meetings. The Company shall provide the Purchaser Director, as applicable, with copies of all notices, minutes, consents and other materials provided to other members of the Board or members of the applicable committee, as applicable, concurrently as such materials are provided to such other members. The Purchaser Board Observer and Purchaser Director shall be subject to the confidentiality and information use restrictions applicable to non-executive members of the Board; provided, however, to the extent permitted by applicable Law, the Company agrees and acknowledges that the Purchaser Board Observer and Purchaser Director may share confidential, non-public information about the Company and its Subsidiaries with the Purchaser and its Affiliates, which information shall be deemed to be Confidential Information and will be subject to Section 5.04. Neither the Purchaser Director nor the Purchaser Board Observer shall participate in, and each of them shall recuse himself or herself from, and the Purchaser shall cause each of them not to participate in, and to recuse himself or herself from, any Board or committee deliberations and actions relating to the Company's relationship with the Purchaser or any of its Affiliates, or matters arising under the Investment Documents, the Commercial Agreement or the Transactions.

(g) The Company shall have the right to withhold any information and to exclude the Purchaser Board Observer from all or any portion of any meeting if access to such information or attendance at such meeting or portion of a meeting could reasonably be expected to (A) adversely affect the attorney-client privilege or work product protection, (B) violate any Law, (C) violate the terms of any confidentiality agreement or other contract with a third party or (D) be unrelated to the Interactive Segment provided, however, that, in the case of clause (A), (B) or (C), the Company shall use reasonable best efforts to provide alternative, redacted or substitute information in a manner that would not result in (x) the loss of the ability to assert attorney-client privilege, attorney work product protection or other legal privileges, (y) the violation of Law or (z) violate the terms of such confidentiality agreement or other contract with a third party, as applicable.

(h) As a condition to the Purchaser Designee's (x) election to the Board or nomination for election as a director of the Company or (y) appointment as a non-voting observer, as applicable, in each case pursuant to this Section 5.09, the Purchaser and each Purchaser Designee must provide to the Company:

(i) all information reasonably requested by the Company that is required to be or is customarily disclosed for directors, candidates for directors and their respective Affiliates and Representatives in a proxy statement or other filings in accordance with applicable Law, any stock exchange rules or listing standards or the Company Charter Documents or corporate governance guidelines;

(ii) all information reasonably requested by the Company in connection with assessing eligibility, independence and other criteria applicable to directors or satisfying compliance and legal or regulatory obligations, including with respect to any applicable Gaming Law and determining whether the Purchaser Designee is subject to a Disqualification Event;

(iii) an undertaking in writing by the Purchaser Designee:

a. to be subject to, bound by and duly comply with a standard confidentiality agreement in a form acceptable to the Company, the code of conduct, related party transaction policy, securities trading policies, corporate governance guidelines, recusal and conflict of interest policies, and other policies and guidelines of the Company, in each case, solely to the extent applicable to all other non-executive directors of the Company; and

b. at the request of the Board, to recuse himself or herself from any deliberations or discussion of the Board or any committee thereof to the extent regarding the Company's relationship with the Purchaser or any of its Affiliates, or matters arising under the Investment Documents, the Commercial Agreement or the Transactions.

(i) Neither any Purchaser Director who is an employee of the Purchaser or any of its Affiliates nor the Purchaser Board Observer shall be entitled to any compensation from the Company for his or her position on the Board (other than reimbursement of expenses pursuant to the Company's reimbursement policies for non-executive directors). With respect to any Purchaser Director who is an employee of the Purchaser and the Purchaser Board Observer, the Company shall provide a waiver, if requested by such Purchaser Director or Purchaser Board Observer, of Director Ownership Requirements to the extent that compliance with such requirements would require any out-of-pocket purchases of any Common Stock or other securities of the Company. The Company shall indemnify the Purchaser Director and provide the Purchaser Director with director and officer insurance to the same extent as it indemnifies and provides such insurance to other non-executive members of the Board, pursuant to the Company Charter Documents, the PBCL or otherwise. The Company hereby acknowledges that the Purchaser Director may have rights to indemnification and advancement of expenses provided by the Purchaser or its Affiliates (directly or through insurance obtained by any such entity) (collectively, the "Director Indemnitors"). The Company hereby agrees and acknowledges that (i) it is the indemnitor of first resort with respect to the Purchaser Director, (ii) it shall be required to advance the full amount of expenses incurred by the Purchaser Director, as required by Law, the terms of the Company Charter Documents, an agreement, vote of stockholders or disinterested directors, or otherwise, without regard to any rights the Purchaser Director may have against the Director Indemnitors and (iii) to the extent permitted by Law, it irrevocably waives, relinquishes and releases the Director Indemnitors from any and all claims against the Director Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Director Indemnitors on behalf of the Company with respect to any claim for which the Purchaser Director has sought indemnification from the Company shall affect the foregoing and the Director Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of the Purchaser Director against the Company.

(j) The Purchaser shall not have the right to transfer or assign to any Person any of the rights contained in this Section 5.09.

Section 5.10 Information Rights. In order to facilitate (i) the Purchaser's compliance with legal and regulatory requirements applicable to the beneficial ownership by the Purchaser and its Affiliates of Common Stock and (ii) the Purchaser's oversight of its investment in the Company, the Company agrees to provide the Purchaser with the following:

(a) if the Company ceases to have any securities registered under the Exchange Act, reasonable access, to the extent reasonably requested by the Purchaser, to the books and records of the Company and its Subsidiaries (including, for the avoidance of doubt, tax records, all upon reasonable notice and at such reasonable times during normal business hours; provided that any investigation pursuant to this Section 5.10(a) shall be conducted in a manner as not to interfere unreasonably with the conduct of the business of the Company and its Subsidiaries; provided that the Company shall not be obligated to provide such access or materials if the Company determines, in its reasonable judgment, that doing so would reasonably be expected to (i) violate applicable Law, an applicable Judgment or a contract or obligation of confidentiality owing to a third party; provided, however, that the Company shall use reasonable efforts to provide alternative, redacted or substitute documents or information in a manner that would not violate applicable Law, an applicable Judgment or a contract or obligation of confidentiality owing to a third party, (ii) jeopardize the protection of an attorney-client privilege, attorney work product protection or other legal privilege; provided, however, that the Company shall use reasonable efforts to provide alternative, redacted or substitute documents or information in a manner that would not result in the loss of the ability to assert attorney-client privilege, attorney work product protection or other legal privileges or (iii) expose the Company to risk of liability for disclosure of personal information; provided that the parties shall use their commercially reasonable efforts to disclose such information in a manner that would not violate the foregoing; and

(b) a copy of any information mailed to all of the holders of Common Stock as soon as practicable after such mailing to the extent that Purchaser has not or will not otherwise receive such information, including in its capacity as a holder of shares of Common Stock.

For the avoidance of doubt, any information received pursuant to Section 5.10(a) shall be deemed Confidential Information and subject to Section 5.04.

Section 5.11 Section 16 Matters. If the Company becomes a party to a consolidation, merger or other similar transaction, or if there is any event or circumstance that may result in the Purchaser, its Affiliates and/or the Purchaser Director being deemed to have made a disposition or acquisition of equity securities of the Company or derivatives thereof for purposes of Section 16 of the Exchange Act, and if the Purchaser Director is serving on the Board at such time or has served on the Board during the preceding six (6) months, (i) the Board or a committee thereof composed solely of two or more "non-employee directors" as defined in Rule 16b-3 of the Exchange Act will pre-approve such acquisition or disposition of equity securities of the Company or derivatives thereof for the express purpose of exempting the Purchaser, its Affiliates and the Purchaser Director's interests (for the Purchaser and/or its Affiliates, to the extent such persons may be deemed to be "directors by deputization") in such transaction from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder and (ii) if the transaction involves (A) a merger or consolidation to which the Company is a party and the Common Stock is, in whole or in part, converted into or exchanged for equity securities of a different issuer, (B) a potential acquisition or deemed acquisition, or disposition or deemed disposition, by the Purchaser, the Purchaser's Affiliates and/or the Purchaser Director of equity securities of such other issuer or derivatives thereof and (C) an Affiliate or other designee of the Purchaser or their Affiliates will serve on the Board (or its equivalent) of such other issuer pursuant to the terms of an agreement to which the Company is a party (or if the Purchaser notifies the Company of such service a reasonable time in advance of the closing of such transactions), then if the Company requires that the other issuer pre-approve any acquisition of equity securities or derivatives thereof for the express purpose of exempting the interests of any director or officer of the Company or any of its Subsidiaries in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder, the Company shall require that such other issuer preapprove any such acquisitions of equity securities or derivatives thereof for the express purpose of exempting the interests of the Purchaser, its Affiliates and the Purchaser Director (for the Purchaser and/or its Affiliates, to the extent such persons may be deemed to be "directors by deputization" of such other issuer) in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder.

Section 5.12 Anti-Takeover Provisions. Neither the Company nor any of its Subsidiaries shall take any action that would cause this Agreement or any of the other Investment Documents, or any of the transactions contemplated hereby or thereby, to be subject to any requirements imposed by any Anti-Takeover Provision, and shall take all steps reasonably necessary within its control to exempt (or ensure the continued exemption of) the Investment Documents and such transactions from any applicable Anti-Takeover Provisions, as now or hereafter in effect.

Section 5.13 No Adverse Action. Without the prior consent of the Purchaser, neither the Company nor the Board shall take any action to cause the amendment of any Company Charter Document or other comparable charter or organizational documents of the Company or its Subsidiaries such that the Purchaser's rights under this Agreement would not be given effect.

Section 5.14 Tax Matters.

(a) The Company and its paying agent shall be entitled to deduct and withhold Taxes on all payments and distributions (or deemed distributions) with respect to the Warrants (or upon the exercise thereof) or the Common Stock issued upon any exercise of any Warrant, in each case, to the extent required by applicable Law. To the extent that any amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction or withholding was made. In the event the Company previously remitted any amounts to a Governmental Authority on account of Taxes required to be deducted or withheld in respect of any payment or distribution (or deemed distribution) with respect to a Warrant (or upon the exercise thereof) or the Common Stock issued upon any exercise of any Warrant, the Company shall be entitled (i) to offset any such amounts against any amounts otherwise payable in respect of such Warrant (or any Warrant Shares otherwise issuable upon the exercise of such Warrant or any amount otherwise payable in respect of a Warrant Share received upon the exercise of such Warrant) or Warrant Shares or any other amounts otherwise payable by the Company to the relevant holder or (ii) to require the Person in respect of whom such deduction or withholding was made to reimburse the Company for such amounts. If the Company determines that any amounts should be deducted, withheld, offset or reimbursed under this Section 5.14(a), the Company shall use reasonable best efforts to (x) give prior written notice of such determination to the Purchaser at least five (5) days prior to making any such deduction, withholding, offset or reimbursement and (y) cooperate with the Purchaser and the relevant holder to reduce or eliminate such deduction, withholding, offset or reimbursement.

(b) Prior to the date of any payment, distribution or deemed distribution with respect to the Warrants (or upon the exercise thereof) or the Common Stock issued upon any exercise of any Warrant, the Purchaser shall have delivered to the Company or its paying agent a duly executed, valid (as of the time of the applicable payment, distribution, deemed distribution or exercise), accurate and properly completed IRS Form W-9, certifying that such Person is a U.S. Person.

(c) The Company shall pay any and all documentary, stamp and similar issue or transfer Tax ("Transfer Tax") due on (x) the issue of Warrants and (y) the issue of Warrant Shares pursuant to the exercise of a Warrant. However, in the case of the exercise of a Warrant, the Company shall not be required to pay any Transfer Tax that may be payable in respect of the issue or delivery (or any transfer involved in the issue or delivery) of Warrant Shares to a beneficial owner other than the beneficial owner of the Warrant immediately prior to the event pursuant to which such issue or delivery is required, and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such Transfer Tax or has established to the satisfaction of the Company that such Transfer Tax has been paid or is not payable.

(d) The Company and the Purchaser agree to treat (i) the Warrants as being issued in connection with the performance of services within the meaning of Section 83 of the Code and (ii) the Warrants as not having a "readily ascertainable" fair market value, as defined in U.S. Treasury Regulations Section 1.83-7(b), at the time of grant and as nonqualified stock options governed by U.S. Treasury Regulations Section 1.83-7(a). Neither the Company nor the Purchaser shall take any position for tax purposes that is inconsistent with this Section 5.14(d), unless required by a determination within the meaning of Section 1313(a) of the Code.

Section 5.15 Offers and Sales by the Purchaser. Except as expressly contemplated under the Registration Rights Agreement, the Purchaser shall not take any action or omit to take any action in connection with the offering for sale and/or sale by the Purchaser or any of its Affiliates of Warrants or any Warrant Shares if such action or omission would result in a requirement under the Securities Act to register the offer and/or sale of shares of Warrants or Warrant Shares by the Company.

ARTICLE VI

Miscellaneous

Section 6.01 Survival. All covenants or other agreements of the parties contained in this Agreement shall survive until fully performed or fulfilled, unless and to the extent that non-compliance with such covenants or agreements is waived in writing by the party entitled to such performance. The parties hereto, intending to modify any applicable statute of limitations, acknowledge and agree that the representations and warranties contained in this Agreement shall terminate upon, and shall not survive, the Initial Closing, other than the representations and warranties set forth in Section 3.02 (*Absence of Certain Changes*), Section 3.03(a) (*Organization; Standing*), Section 3.04(a) (*Authority; Noncontravention*), Section 3.08 (*Listing and Maintenance Requirements*), Section 3.09 (*Status of Securities*), Section 3.10(a) (*Capitalization*), Section 3.13 (*Anti-Takeover Provisions and No Rights Plan*), Section 4.01 (*Organization; Standing*) and Section 4.02 (*Authority; Noncontravention*) which shall survive shall survive for twelve (12) months following the Initial Closing; provided that nothing herein shall relieve any party of liability for (x) any inaccuracy or breach of any representation or warranty to the extent that any claim with respect to of such inaccuracy or breach is made in writing in good faith prior to the end of the applicable survival period by the Purchaser or the Company, as applicable, and any Action with respect thereto is commenced within three (3) months of the notice of such claim (in which case the applicable representation(s) and warranty(ies) shall survive for the duration of such Action) or (y) Fraud in connection with the representations and warranties expressly set forth in ARTICLE III and ARTICLE IV.

Section 6.02 Amendments; Waivers. Subject to compliance with applicable Law, this Agreement may be amended or supplemented in any and all respects only by written agreement of the parties hereto.

Section 6.03 Extension of Time, Waiver, Etc. The Company and the Purchaser may, subject to applicable Law, (a) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered pursuant hereto, (b) extend the time for the performance of any of the obligations or acts of the other party or (c) waive compliance by the other party with any of the agreements contained herein applicable to such party or, except as otherwise provided herein, waive any of such party's conditions. Notwithstanding the foregoing, no failure or delay by the Company or the Purchaser in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder. The waiver by any party to this Agreement of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 6.04 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of Law or otherwise, by any of the parties hereto without the prior written consent of the other party hereto; provided that (a) without the prior written consent of the Company, the Purchaser may assign its rights, interests and obligations hereunder, in whole or in part, to any successor entity of the Purchaser or to one or more Affiliates of the Purchaser and (b) in the event of such assignment, the assignee shall agree in writing to be bound by the provisions of this Agreement, including the rights, interests and obligations so assigned. Subject to the immediately preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and permitted assigns. Notwithstanding anything to the contrary herein, no assignment of this Agreement or any rights, interests or obligations hereunder will relieve the Purchaser or the Company their respective obligations set forth herein. For the avoidance of doubt, no Transfer by Purchaser of any Warrant or Warrant Share shall result in the transfer or assignment of any of the Purchaser's rights hereunder, including Section 5.09.

Section 6.05 Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts (including by electronic means), each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto. In the event that any signature is delivered 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 ".pdf" signature were the original thereof.

Section 6.06 Entire Agreement; No Third-Party Beneficiaries; No Recourse.

(a) This Agreement, including the Company Disclosure Letter, together with other Investment Documents, constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the parties and their Affiliates, or any of them, with respect to the subject matter hereof and thereof.

(b) Except as expressly provided for in Section 5.09(i), no provision of this Agreement shall confer upon any Person other than the parties hereto and their permitted assigns any rights or remedies hereunder. This Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as parties hereto, including entities that become parties hereto after the date hereof or that agree in writing for the benefit of the Company to be bound by the terms of this Agreement applicable to the Purchaser, and no former, current or future equityholders, controlling persons, directors, officers, employees, agents or Affiliates of any party hereto or any former, current or future equityholder, controlling person, director, officer, employee, general or limited partner, member, manager, advisor, agent or Affiliate of any of the foregoing (each, a "Non-Recourse Party") shall have any liability for any obligations or liabilities of the parties to this Agreement or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any representations made or alleged to be made in connection herewith. Without limiting the rights of any party against the other parties hereto, in no event shall any party or any of its Affiliates seek to enforce this Agreement against, make any claims for breach of this Agreement against, or seek to recover monetary damages from any Non-Recourse Party.

Section 6.07 Governing Law; Jurisdiction. This Agreement, and all Actions that may be based upon, arising out of or relating to this Agreement or any of the transactions contemplated hereby or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or relating to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by and construed in accordance with the internal laws of the State of New York, including its statute of limitations, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws. Each of the parties hereto irrevocably and unconditionally, with respect to any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) agrees to submit to the exclusive jurisdiction of the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, and appellate courts thereof, (b) agrees that it will not attempt to deny or defeat such jurisdiction by motion or other request for leave from such court, (c) waives any objection to the laying of venue in such court, (d) waives and agrees not to plead or claim in any such court that such Action brought in any such court has been brought in an inconvenient forum and (e) agrees that it will not bring any such Action in any court other than the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, or, if (and only if) such court finds it lacks subject matter jurisdiction, the federal court of the United States of America sitting in New York, and appellate courts thereof, or, if (and only if) each such court for the State of New York and such federal court finds it lacks subject matter jurisdiction, any state court within the State of New York. Each of the parties hereto further agrees that, to the fullest extent permitted by applicable Law, service of any process, summons, notice or document to any party's address and in the manner set forth in Section 6.10 shall be effective service of process for any such Action.

Section 6.08 Specific Enforcement. The parties hereto agree that irreparable damage for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement in accordance with the specified terms or otherwise breach such provisions. Accordingly the parties acknowledge and agree that the parties hereto shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in the courts described in Section 6.07 without proof of damages or otherwise, this being in addition to any other remedy to which they are entitled under this Agreement and this right of specific enforcement is an integral part of the Transactions and without that right, the parties hereto would not have entered into this Agreement. The parties hereto agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to Law or inequitable for any reason, and agree not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at law. The parties hereto acknowledge and agree that any party shall not be required to provide any bond or other security in connection with its pursuit of an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof.

Section 6.09 WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE OTHER INVESTMENT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 6.09.

Section 6.10 Notices. All notices, requests and other communications to any party hereunder shall be in writing and shall be deemed given if delivered personally, by email (except in the event of any "bounceback" or similar non-transmittal message) or sent by overnight courier to the parties at the following addresses:

(a) If to the Company, to it at:

PENN Entertainment, Inc.
825 Berkshire Blvd., Suite 200
Wyomissing, Pennsylvania 19610
Attn: Chief Strategy Officer
Email: chris.rogers@pennentertainment.com

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Zachary S. Podolsky
Email: ZSPodolsky@wlrk.com

(b) If to the Purchaser at:

ESPN, Inc.
ESPN Plaza
935 Middle Street
Bristol, CT 06010
Attn: Bryan Castellani; Eleanor S. DeVane
Email: Bryan.Castellani@espn.com; Eleanor.S.DeVane@espn.com

with a copy (which shall not constitute notice) to:

The Walt Disney Company
500 South Buena Vista Street
Burbank, California 91521-1245
Attn: James Kapenstein
Email: James.Kapenstein@disney.com

and a copy (which shall not constitute notice) to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
Attn: Daniel Cerqueira
George Schoen
Email: DCerqueira@cravath.com
GSchoen@cravath.com

or such other address or email address as such party may hereafter specify by like notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of delivery.

Section 6.11 Severability. If any term, condition or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term, condition or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law.

Section 6.12 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the Transactions shall be paid by the party incurring such costs and expenses.

Section 6.13 Interpretation.

(a) When a reference is made in this Agreement to an Article, a Section, Exhibit or Schedule, such reference shall be to an Article of, a Section of, or an Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement unless the context requires otherwise. The words "date hereof" when used in this Agreement shall refer to the date of this Agreement. The terms "or," "any" and "either" are not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if." The word "will" shall be construed to have the same meaning and effect as the word "shall." The words "made available to the Purchaser" and words of similar import refer to documents (i) posted to a diligence website by or on behalf of the Company and made available to the Purchaser or its Representatives or (ii) delivered in Person or electronically to the Purchaser or its Representatives. All terms defined in this Agreement shall have the defined meanings when used in any document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Unless otherwise specifically indicated, all references to "dollars" or "$" shall refer to the lawful money of the United States. References to a Person are also to its permitted assigns and successors. When calculating the period of time between which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded (unless otherwise required by Law, if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day).

(b) The parties hereto have participated jointly in the negotiation and drafting of this Agreement, and in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provision of this Agreement.

[*Remainder of Page Intentionally Left Blank*]

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

PENN ENTERTAINMENT, INC.

By: /s/ Christopher Rogers
Name: Christopher Rogers
Title: Executive Vice President, Chief Strategy Officer

ESPN, INC.

By: /s/ Michael T. Morrison
Name: Michael T. Morrison
Title: Vice President, Sports Betting & Fantasy

[*Signature Page to Investment Agreement*]

Annex I

Form of Warrant

[*See attached*]

Annex II

Registration Rights Agreement

[*See attached*]

Exhibit 4.2

FORM OF WARRANT

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE SUBJECT TO TRANSFER AND OTHER RESTRICTIONS SET FORTH IN AN INVESTMENT AGREEMENT, DATED AS OF AUGUST 8, 2023, AND WARRANT INSTRUMENT, DATED AS OF [___], COPIES OF WHICH ARE ON FILE WITH THE SECRETARY OF THE ISSUER.

WARRANT
TO PURCHASE
SHARES OF COMMON STOCK
OF
PENN ENTERTAINMENT, INC.

No. W-[·] [___]

FOR VALUE RECEIVED, the undersigned, PENN Entertainment, Inc., a Pennsylvania corporation (together with its successors and assigns, the "Company"), hereby certifies that

ESPN, INC.

or its registered assign is entitled to subscribe for and purchase, at the Warrant Exercise Price per share, the Warrant Share Number of duly authorized, legally issued, fully paid and non-assessable shares of Common Stock, subject to the Company's right, at its sole and absolute discretion, to effect settlement of the Warrant via a Total Cash Settlement or a Mixed Cash/Stock Settlement in accordance with the terms and conditions of this Warrant. This Warrant is issued pursuant to that certain Investment Agreement, dated as of August 8, 2023, by and among the Company and Purchaser (as it may be amended from time to time in accordance with the terms thereof, the "Investment Agreement"). Capitalized terms used in this Warrant and not otherwise defined herein shall have the respective meanings specified in Section 7 hereof.

1. Term. The Holder's rights to receive the Warrant Consideration represented by this Warrant shall expire at 5:00 p.m. (New York City time) on [●], [●] (such period being the "Term").

2. Method of Exercise; Payment; Issuance of New Warrant; and Exchange.

(a) Time of Exercise. The rights to receive the Warrant Consideration represented by this Warrant may be exercised by the Holder in whole or in part, at any time and from time to time, from and after the time at which such rights (or such part thereof) have vested in accordance with Section 2.05 of the Investment Agreement but before the expiration of the Term, provided that, notwithstanding anything to the contrary set forth herein, any such exercise shall be subject to and conditional upon (i) the prior making and receipt of (x) any and all filings, notifications, expirations or terminations of waiting periods, waivers, authorizations, approvals, permits, consents, clearances, rulings, findings of suitability or orders under any applicable Competition Laws and Gaming Laws, and (y) any and all Gaming Licenses and (ii) the prior approval of the Company's shareholders to the extent required under applicable Law (including any approval of the Company's shareholders that would be required under the Nasdaq Rules), in the case of each of clauses (i) and (ii), to the extent required for issuance or transfer of the applicable Warrant Consideration upon such exercise of this Warrant in accordance with Section 2(c) and 2(d). Notwithstanding anything to the contrary in this Warrant, where any issuance or transfer of all or a portion of the applicable Warrant Consideration issuable or transferable on any proposed exercise requires any approval(s) set forth in clauses (i) and/or (ii) above and such approval(s) have not first been obtained, all or such portion (as applicable) of such exercise will be null and void and will not be recognized by the Company unless and until all such approval(s) have been obtained.

(b) No Cash Exercise Unless Otherwise Agreed. Unless the Holder and the Company otherwise agree in writing, the Holder may only exercise this Warrant pursuant to Section 2(c).

(c) Net Issue Exercise. The Holder may exercise this Warrant (or a portion hereof), subject to such Warrant or such portion having vested in accordance with Section 2.05 of the Investment Agreement, by electing on one or more occasions, prior to 5:00 p.m. (New York City time) on any Business Day before the expiration of the Term, to receive the Warrant Consideration payable in accordance with this Warrant (or the portion thereof being exercised) by surrender of this Warrant at the principal office of the Company together with written notice of such election specifying the number Warrant Shares for which the Holder has elected to exercise this Warrant (assuming cash payment of the exercise price (and not pursuant to this Section 2(c)) and settlement entirely in shares of Common Stock), which shall not exceed the Warrant Share Number, in which event the Company shall have the right, at its sole and absolute discretion, to (x) settle the exercise of the Warrant by issuing to the Holder a number of shares of Common Stock computed using, and referred to as "X" in, the formula set out at the end of this clause (the "Issuable Warrant Shares") (a "Total Stock Settlement"), (y) settle the exercise of the Warrant by tendering by wire transfer of immediately available funds to an account designated by the Holder, an amount equal to the Issuable Warrant Shares *multiplied by* the fair market value of one share of Common Stock on the Exercise Date (a "Total Cash Settlement"), or (z) settle the exercise of the Warrant partly by way of stock settlement under clause (x) above and partly by way of cash settlement under clause (y) above in proportions determined by the Company at its sole and absolute discretion, provided that the total aggregate monetary value of the consideration transferred by the Company to the Holder under this clause (z) (treating the value of each share of Common Stock delivered by way of stock settlement as the fair market value of one share of Common Stock on the Exercise Date, as defined below) shall be equal to the value of the Total Cash Settlement (a "Mixed Cash/Stock Settlement"); provided prior to the Required Shareholder Approval, Excess Warrant Shares shall only be exercisable by way of Total Cash Settlement. The Company shall inform the Holder of its settlement election no later than 5:00 p.m. (New York City time) on the second Trading Day after the Exercise Date.

The formula referred to in clause (x) is as follows:

$$X = \frac{Y(A-B)}{A}$$

Where: X = the number of the shares of Common Stock to be issued to the Holder.
Y = the number of the Warrant Shares with respect to which the Warrant is exercised.
A = the fair market value of one share of Common Stock on the Exercise Date.
B = the Warrant Exercise Price (as adjusted to the date of such calculation).

For the purposes of this Section 2(c), the "fair market value of one share of Common Stock on the Exercise Date" shall mean:

(i) if the Common Stock is publicly traded, the volume-weighted average price per share of the Common Stock, or any successor security thereto, rounded to the second decimal place, on the Principal Trading Market (as reported by Bloomberg L.P. (or its successor) or, if Bloomberg L.P. (or its successor) is not available, by Dow Jones & Company Inc., or if neither is available, by another authoritative source mutually agreed by the Company and the Holder) from 9:30:00 a.m. (New York City time) on the Trading Day that is twenty (20) Trading Days preceding the Exercise Date to 4:00:01 p.m. (New York City time) on the last Trading Day immediately preceding the Exercise Date (the "20-Day VWAP"); and

(ii) if the Common Stock is not so publicly traded, the fair market value per share of the Common Stock as determined in good faith by the Board of Directors of the Company in reliance on an opinion of a nationally recognized independent investment banking firm retained by the Company for this purpose; provided that the Holder shall have a right to receive such opinion from the Board of Directors and any other calculations performed to arrive at such fair market value.

The "20-Day VWAP" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours on the Principal Trading Market.

The "Exercise Date" for the purposes of this Section 2(c) shall be the date the notice of exercise is delivered by the Holder to the Company in accordance with the terms and conditions hereof.

(d) Issuance of Warrant Consideration and New Warrant. Following any exercise of the rights represented by this Warrant in accordance with and subject to the terms and conditions hereof, the Holder shall deliver this Warrant for cancellation or exchange prior to the Settlement Date (as defined below), and (i) if the Company elects for a Total Stock Settlement, the Issuable Warrant Shares shall be issued by the Company to the Holder on or prior to the fifth Trading Day after the Exercise Date (the "Settlement Date"), via book-entry transfer crediting the account of the Holder through the Company's transfer agent and registrar for the Common Stock (which as at the issuance of this Warrant is Continental Stock Transfer & Trust), (ii) if the Company elects for a Total Cash Settlement, the Company shall tender the relevant amount to the Holder on or prior to the Settlement Date, by wire transfer of immediately available funds to an account designated by the Holder, (iii) if the Company elects for a Mixed Cash/Stock Settlement, the Company shall issue to the Holder the relevant number of shares of Common Stock via book-entry transfer crediting the account of the Holder through the Company's transfer agent and registrar for the Common Stock, and the Company shall tender the relevant amount to the Holder by wire transfer of immediately available funds to an account designated by the Holder, in each case on or prior to the Settlement Date, and (iv) unless this Warrant has expired, a new Warrant representing a right to receive the Warrant Consideration, if any, with respect to which this Warrant shall not then have been exercised shall also be issued to the Holder on the Settlement Date after such exercise and delivery of this Warrant.

(e) Exercisability. This Warrant shall be exercisable in accordance with the terms hereof to the extent, and only to the extent, vested (as determined in accordance with Section 2.05 of the Investment Agreement). The Holder shall not have the right to exercise the Warrant with respect to the unvested portion of the Warrant and the Company shall have no obligation to issue or transfer, and the holder of each Warrant shall have no right to receive, the Warrant Consideration underlying the unvested portion of the Warrant.

(f) Compliance with Securities Laws.

(i) The Holder, by acceptance hereof, acknowledges that this Warrant and any Warrant Shares to be issued upon exercise hereof are being acquired solely for the Holder's own account, and not as a nominee for any other party, and for investment, and that the Holder will not offer, sell or otherwise dispose of this Warrant or any Warrant Shares to be issued upon exercise hereof except pursuant to an effective registration statement, or an exemption from registration, under the Act and any applicable state securities laws.

(ii) Except as provided in clause (iii) below, this Warrant and any Warrant Shares issued upon exercise hereof shall be stamped or imprinted with a legend in substantially the following form (which, in the case of Warrant Shares, shall be in the form of an appropriate book-entry notation):

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE SUBJECT TO TRANSFER AND OTHER RESTRICTIONS SET FORTH IN AN INVESTMENT AGREEMENT, DATED AS OF AUGUST 8, 2023, AND WARRANT INSTRUMENT, DATED AS OF [___], COPIES OF WHICH ARE ON FILE WITH THE SECRETARY OF THE ISSUER.

(iii) Subject to Section 6, upon request of the Holder and receipt by the Company of an opinion of counsel reasonably satisfactory to the Company to the effect that such legend is no longer required under the Act and applicable state securities laws, the Company shall promptly cause the first paragraph of the legend to be removed from any certificate or other instrument for this Warrant or Warrant Shares to be Transferred in accordance with the terms of this Warrant and the Investment Agreement, and the second paragraph of the legend shall be removed by the Company upon the expiration of such Transfer and other restrictions set forth in the Investment Agreement and this Warrant.

(g) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional Warrant Shares shall be issued upon the exercise of this Warrant. In lieu of any fractional Warrant Share to which the Holder would otherwise be entitled, the Company shall make a payment by wire transfer of immediately available funds equal to the Market Price of a share of Common Stock on the Trading Day immediately preceding the Exercise Date *multiplied by* such fraction.

(h) Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and substance to the Company or, in the case of mutilation, on surrender and cancellation of this Warrant, the Company shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor and amount.

(i) No Rights of Shareholders. The Holder shall not be entitled to vote or receive dividends or be deemed the holder of Common Stock or any other securities of the Company that may at any time be issuable on the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon the Holder, as such, any of the rights of a shareholder of the Company or any right to vote for the election of directors or upon any matter submitted to shareholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value, or change of stock to no par value, consolidation, merger, conveyance, or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise.

3. Certain Representations and Agreements. The Company represents, covenants and agrees that:

(a) This Warrant is, and any Warrant issued in substitution for or replacement of this Warrant shall be, upon issuance, duly authorized and validly issued.

(b) All Warrant Shares issuable upon the exercise of this Warrant pursuant to the terms hereof shall be, upon issuance, and the Company shall take all such actions as may be necessary or appropriate in order that such Warrant Shares are, legally issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any stockholder of the Company, and free from all taxes and charges (other than income and franchise taxes incurred in connection with the exercise of the Warrants or taxes in respect of any transfer occurring contemporaneously therewith) and free and clear of all liens, except restrictions imposed by the Securities Act, Section 5.07 of the Investment Agreement and any applicable securities laws. The Company further covenants and agrees that during the period within which this Warrant may be exercised, the Company will at all times have authorized and reserved (as unissued or held in treasury) a sufficient number of shares of Common Stock to provide for the exercise in full of this Warrant (assuming a Total Stock Settlement but disregarding the Excess Warrant Shares prior to receipt of the Required Shareholder Approval). The Company will procure, subject to issuance or notice of issuance, the listing of any Warrant Shares issuable upon exercise of this Warrant on the Principal Trading Market (other than the Excess Warrant Shares prior to receipt of the Required Shareholder Approval).

(c) Subject to Section 5.01 of the Investment Agreement, the Company shall take all such actions as may be necessary to ensure that all Warrant Shares are issued and all cash is paid by the Company, in accordance with Section 2(c), without violation of any applicable Law or governmental regulation or any requirements of any securities exchange upon which shares of the Company's capital stock may be listed at the time of such exercise, in each case, that is applicable to the Company or such issuance or payment; provided that nothing in this Warrant or the Investment Agreement shall obligate the Company to solicit, secure or use efforts to solicit or secure any approval of the shareholders of the Company for the issuance of Excess Warrant Shares unless and until an exercise of this Warrant is voided in accordance with Section 2(a) due to such shareholder approval not having being obtained (an "SH Approval Voided Exercise"). Following an SH Approval Voided Exercise, the Company shall keep Holder apprised on a prompt basis of the status of its efforts to obtain such shareholder approval, and Holder and the Company shall cooperate in good faith regarding the timing of subsequent exercises of this Warrant in order to provide the Company with reasonable time to seek such shareholder approval.

(d) Except as required by applicable Law, the Company shall not amend or modify any provision of the certificate of incorporation of the Company or the bylaws of the Company in any manner that would result in a requirement that the Company's shareholders approve the exercise of this Warrant or the issuance of Common Stock or transfer of cash in settlement of this Warrant or materially adversely affect the powers, preferences or relative participating, optional or other special rights of the Common Stock in a manner which would disproportionately and adversely affect the rights of the Holder.

4. Adjustments and Other Rights. The Warrant Exercise Price and the Warrant Share Number shall be subject to adjustment from time to time as follows; provided that (i) no single event shall cause an adjustment under more than one subsection of this Section 4 to the extent it would result in duplication and (ii) for purposes of such adjustments, it shall be disregarded whether or not this Warrant is then exercisable by its terms. Notwithstanding anything to the contrary in this Section 4, any reference in this Section 4 to a right of the Holder to purchase, acquire or receive shares of Common Stock issuable upon exercise of this Warrant shall at all times be subject to Sections 2(c) and (d), including the "net exercise" provisions and the Company's sole and absolute discretion to determine a form of Warrant Consideration other than Warrant Shares in accordance with Section 2(c).

(a) Stock Splits, Subdivisions, Reclassifications or Combinations. If the Company shall at any time or from time to time (i) declare, order, pay or make a dividend or make a distribution on its Common Stock in shares of Common Stock, (ii) split, subdivide or reclassify the outstanding shares of Common Stock into a greater number of shares or (iii) combine or reclassify the outstanding shares of Common Stock into a smaller number of shares, the Warrant Share Number at the time of the record date for such dividend or distribution or the effective date of such split, subdivision, combination or reclassification shall be proportionately adjusted so that the Holder immediately after such record date or effective date, as the case may be, shall be entitled to purchase the number of shares of Common Stock which such Holder would have owned or been entitled to receive in respect of the shares of Common Stock subject to this Warrant after such date had this Warrant been exercised in full (via a Total Stock Settlement) immediately prior to such record date or effective date, as the case may be. In the event of such adjustment, the Warrant Exercise Price in effect at the time of the record date for such dividend or distribution or the effective date of such split, subdivision, combination or reclassification shall be immediately adjusted to the number obtained by *dividing* (x) the product of (1) the Warrant Share Number before the adjustment determined pursuant to the immediately preceding sentence and (2) the Warrant Exercise Price in effect immediately prior to the record or effective date, as the case may be, for the dividend, distribution, split, subdivision, combination or reclassification giving rise to such adjustment *by* (y) the new Warrant Share Number determined pursuant to the immediately preceding sentence.

(b) Certain Issuances of Common Shares or Convertible Securities. If the Company shall at any time or from time to time issue shares of Common Stock (or rights or warrants or any other securities or rights exercisable or convertible into or exchangeable (collectively, a "conversion") for shares of Common Stock) (collectively, "convertible securities") (other than in Permitted Transactions or a transaction to which the adjustments set forth in subsection (a) of this Section 4 are applicable), without consideration or at a consideration per share (or having a conversion price per share) that is less than the Market Price of the Common Stock on the last Trading Day immediately prior to the date of the agreement providing for the issuance of such shares (or such convertible securities) or if such agreement specifies a different date or dates for the determination of the price at which such shares (or such convertible securities) will be issued, less than the Market Price of the Common Stock on the Last Trading Day immediately prior to such date or dates calculated using the same weighting methodology as is used to determine the price at which such shares of Common Stock will be issued (such date, prior to any issuance of such shares (or such convertible securities) on such date, the "Pricing Date") then, in such event:

(i) the Warrant Share Number on the Pricing Date (the "Initial Number") shall be increased to the number obtained by *multiplying* the Initial Number *by* a fraction (A) the numerator of which shall be the sum of (x) the number of shares of Common Stock outstanding on the Pricing Date and (y) the number of additional shares of Common Stock issued (or into which convertible securities may be converted) and (B) the denominator of which shall be the sum of (x) the number of shares of Common Stock outstanding on the Pricing Date and (y) the number of shares of Common Stock (rounded to the nearest whole share) which the Aggregate Consideration in respect of such issuance of shares of Common Stock (or convertible securities) would purchase at the Market Price of the Common Stock on the last Trading Day immediately prior to the Pricing Date; and

(ii) the Warrant Exercise Price payable upon exercise of this Warrant shall be adjusted by *multiplying* such Warrant Exercise Price in effect on the Pricing Date *by* a fraction, the numerator of which shall be the Warrant Share Number immediately prior to the adjustment pursuant to clause (i) above, and the denominator of which shall be the Warrant Share Number immediately after the adjustment pursuant to clause (i) above.

For the purposes of the foregoing, (I) the "Aggregate Consideration" in respect of such issuance of shares of Common Stock (or convertible securities) shall be deemed to be equal to the sum of the net offering price (after deduction of any related expenses payable to third parties, including discounts and commissions) of all such shares of Common Stock and convertible securities, *plus* the aggregate amount, if any, payable upon conversion of any such convertible securities (assuming conversion in accordance with their terms immediately following their issuance (and further assuming for this purpose that such convertible securities are convertible at such time)); (II) in the case of the issuance of such shares of Common Stock or convertible securities for, in whole or in part, any non-cash property (or in the case of any non-cash property payable upon conversion of any such convertible securities), the consideration represented by such non-cash property shall be deemed to be the Market Price (in the case of listed or quoted securities) and/or Fair Market Value (in all other cases), as applicable, of such non-cash property as of the last Trading Day immediately prior to the Pricing Date (after deduction of any related expenses payable to third parties, including discounts and commissions); (III) on any increase in the number of shares of Common Stock deliverable upon conversion of any such issued convertible securities, and/or any decrease in the consideration receivable by the Company in respect of any such conversion (each, a "Post-Issuance Adjustment"), then, to the extent that, in respect of the same facts and events, the adjustment provisions set forth in this Section 4 (excluding this clause (III)) do not result in a proportionate increase in the Warrant Share Number, and/or proportionate decrease in the Warrant Exercise Price payable upon exercise of this Warrant, in each case equal to or greater than the proportionate increase and/or decrease, respectively, in respect of such convertible securities, then the Warrant Share Number, and the Warrant Exercise Price payable, upon exercise of this Warrant, in each case then in effect, shall forthwith be readjusted to such Warrant Share Number and such Warrant Exercise Price as would have been obtained had the Post-Issuance Adjustment been effective in respect of such convertible securities as of the Pricing Date of such convertible securities; (IV) if the Warrant Exercise Price and the Warrant Share Number shall have been adjusted upon the issuance of any convertible securities in accordance with this Section 4, subject to clause (III) above, no further adjustment of the Warrant Exercise Price and the Warrant Share Number shall be made for the actual issuance of shares of Common Stock upon the actual conversion of such convertible securities in accordance with their terms; and (V) "Permitted Transactions" mean (A) any issuance of shares of Common Stock (including upon exercise of options) or convertible securities to directors, advisors, employees or consultants of the Company pursuant to a stock option plan, employee stock purchase plan, restricted stock plan, other employee benefit plan or other similar compensatory agreement or arrangement approved by the Company's Board of Directors, (B) any issuance of rights or convertible securities in connection with the adoption of a shareholder rights plan in customary form (including with respect to the receipt of such rights in respect of shares of Common Stock (including Warrant Shares) issued subsequent to the initial issuance of such rights or convertible securities), but only until such time as the rights or convertible securities become exercisable in accordance with the terms of the shareholder rights plan, in which event the Issuable Warrant Shares shall be adjusted if and when issued in accordance with the terms of Section 4(f) hereto, (C) any issuance of shares of Common Stock or convertible securities in connection with any Business Combination, (D) a broadly marketed offering and sale of Common Stock or convertible securities for cash conducted by the Company on a basis consistent in all material respects with public companies similar to the Company in their own capital raising transactions and (E) the exercise of the Warrants. Any adjustment made pursuant to this Section 4(b) shall become effective immediately upon the date of such issuance.

(c) Distributions.

(i) If the Company shall fix a record date for the making of a dividend or other distribution (by spin-off or otherwise) on shares of Common Stock other than in cash, whether in other securities of the Company (including rights, options and warrants), evidences of indebtedness of the Company or any other Person or any other property (including securities or evidences of indebtedness of a Subsidiary), or any combination thereof, excluding (x) dividends or distributions subject to adjustment pursuant to Section 4(a) or 4(b), or (y) dividends or distributions of rights in connection with the adoption of a shareholder rights plan in customary form (including with respect to the receipt of such rights in respect of shares of Common Stock (including Warrant Shares) issued subsequent to the initial dividend or distribution of such rights), then in each such case, the Warrant Share Number shall be increased by *multiplying* the Warrant Share Number *by* a fraction, the numerator of which is the Market Price per share of Common Stock on such record date and the denominator of which is the Market Price per share of Common Stock on such record date *less* the Market Price (in the case of listed or quoted securities) and/or Fair Market Value (in all other cases) of the securities and/or any other property, as applicable, to be so paid or distributed in such dividend or distribution in respect of one share of Common Stock (in each case as of the record date of such dividend or distribution); such adjustment shall be effective as of the record date for such dividend or distribution. In the event of such adjustment, the Warrant Exercise Price shall immediately be decreased by *multiplying* such Warrant Exercise Price *by* a fraction, the numerator of which is the Warrant Share Number immediately prior to such adjustment, and the denominator of which is the new Warrant Share Number determined in accordance with the immediately preceding sentence. Notwithstanding the foregoing, if the Market Price and/or Fair Market Value of the securities and/or any other property, as applicable, to be so paid or distributed in such dividend or distribution in respect of one share of Common Stock (in each case as of the record date of such dividend or distribution) is equal to or greater than the Market Price per share of Common Stock on such record date, then proper provision shall be made such that, upon exercise of this Warrant, the Holder shall receive, in addition to the Warrant Consideration, the amount and kind of such securities and/or any other property such Holder would have received had such Holder exercised this Warrant immediately prior to such record date and had the Company then elected a Total Stock Settlement, or a cash payment equivalent to the Market Price (in the case of listed or quoted securities) and/or the Fair Market Value (in all other cases) of such securities and/or other property. For all purposes of this Section 4(c)(i), where there has been a dividend or other distribution on the Common Stock of the securities of a Subsidiary or other business unit of the Company, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange, the Market Price of the Common Stock and the Market Price or Fair Market Value of such securities means the average Market Price of the Common Stock and such securities, respectively, over the first ten (10) consecutive Trading Day period after, and including, the first day that such securities begin trading regular-way on such exchange.

(ii) If the Company shall fix a record date for the making of a cash dividend on shares of Common Stock, the Warrant Exercise Price in effect prior thereto shall be reduced immediately thereafter by the per share amount of such cash dividend.

(iii) For purposes of the foregoing subsections (i) and (ii), in the event that such dividend or distribution in question is ultimately not so made, the Warrant Exercise Price and the Warrant Share Number then in effect shall be readjusted, effective as of the date when the Board of Directors of the Company determines not to make such dividend or distribution, to the Warrant Exercise Price that would then be in effect and the Warrant Share Number if such record date had not been fixed.

(d) Business Combinations. In case of any Business Combination or reclassification of Common Stock (other than a reclassification of Common Stock subject to adjustment pursuant to Section 4(a)), notwithstanding anything to the contrary contained herein, (i) the Company shall notify the Holder in writing of such Business Combination or reclassification as promptly as practicable (but in no event later than five (5) Business Days prior to the effectiveness thereof), and (ii) the Holder's right to receive the Warrant Consideration upon exercise of this Warrant shall be converted, effective upon the occurrence of such Business Combination or reclassification, into the right to exercise this Warrant to acquire the number of shares of stock or other securities or property (including cash) that the Common Stock potentially issuable (at the time of such Business Combination or reclassification) upon exercise of this Warrant in full immediately prior to such Business Combination (assuming a Total Stock Settlement) or reclassification would have been entitled to receive upon consummation of such Business Combination or reclassification; and in any such case, if applicable, the provisions set forth herein with respect to the rights and interests thereafter of the Holder shall be appropriately adjusted so as to be applicable, as nearly as may reasonably be, to the Holder's right to exercise this Warrant in exchange for any shares of stock or other securities or property pursuant to this paragraph. In determining the kind and amount of stock, securities or the property receivable upon exercise of this Warrant upon and following adjustment pursuant to this paragraph, if the holders of Common Stock have the right to elect the kind or amount of consideration receivable upon consummation of such Business Combination, then the Holder shall have the right to make the same election upon exercise of this Warrant with respect to the number of shares of stock or other securities or property which the Holder will receive upon exercise of this Warrant. In case of any such Business Combination or other event, the successor or acquiring Person (if other than the Company) shall expressly assume the due and punctual observance and performance of each and every covenant and condition of this Warrant to be performed and observed by the Company and all the obligations and liabilities hereunder.

(e) Certain Repurchases of Common Stock. In case the Company effects a Pro Rata Repurchase of Common Stock at a consideration per share that is greater than the Market Price of Common Stock immediately preceding the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase, then the Warrant Exercise Price shall be reduced to the price determined by *multiplying* the Warrant Exercise Price in effect immediately prior to the Effective Date of such Pro Rata Repurchase *by* a fraction, of which the numerator shall be (i) the product of (x) the number of shares of Common Stock outstanding immediately prior to such Pro Rata Repurchase and (y) the Market Price of a share of Common Stock on the Trading Day immediately preceding the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase, *minus* (ii) the aggregate purchase price of the Pro Rata Repurchase, and of which the denominator shall be the product of (x) the number of shares of Common Stock outstanding immediately prior to such Pro Rata Repurchase *minus* the number of shares of Common Stock so repurchased, and (y) the Market Price per share of Common Stock on the Trading Day immediately preceding the first public announcement by the Company or any of its Affiliates of the intent to effect such Pro Rata Repurchase. In such event, the Warrant Share Number shall be increased to the number obtained by *dividing* (i) the product of (x) the Warrant Share Number before such adjustment, and (y) the Warrant Exercise Price in effect immediately prior to the Pro Rata Repurchase giving rise to this adjustment *by* (ii) the new Warrant Exercise Price determined in accordance with the immediately preceding sentence.

(f) Certain Rights or Warrants; Stockholder Rights Plan.

(i) If the Company shall distribute or shall be deemed to have distributed, or shall fix a record date for the making of a distribution, to all holders of shares of its Common Stock of rights or warrants pursuant to a stockholder rights plan (also commonly known as a "poison pill") (a "Rights Plan"), which rights or warrants are not exercisable until the occurrence of a specified event or events (a "Trigger Event"), in each such case, upon the occurrence of the earliest Trigger Event, the Warrant Exercise Price in effect prior to such Trigger Event shall be reduced immediately after such Trigger Event to the price determined by *multiplying* the Warrant Exercise Price in effect immediately prior to the reduction by a fraction, of which (A) the numerator shall be the result of (x) the Market Price of the Common Stock on the last Trading Day preceding the date of such Trigger Event (or, if the occurrence of such Trigger Event is not publicly disclosed as of the date of such Trigger Event, the last Trading Day preceding the first date on which the occurrence of such Trigger Event is publicly disclosed) (either such date, as applicable, the "Pre-Trigger Event Date"), minus (y) the Fair Market Value of the rights or warrants distributed in respect of one share of Common Stock (determined as of the date of such Trigger Event or public disclosure of such Trigger Event, as applicable, after giving effect to the occurrence of such Trigger Event), and (B) the denominator of which shall be such Market Price of the Common Stock on the Pre-Trigger Event Date. The adjustment described in the preceding sentence shall be made successively whenever any Trigger Event occurs under any Rights Plan and, with respect to any Rights Plan with respect to which an adjustment has been made, a corresponding adjustment shall be made successively whenever any subsequent adjustment to the applicable rights or warrants is made pursuant to the terms of such Rights Plan to the extent such adjustment has not been made pursuant to the other terms of this Warrant. In such event, the Warrant Share Number shall be increased to the number obtained by *dividing* (x) the product of (1) the Warrant Share Number before such adjustment, and (2) the Warrant Exercise Price in effect immediately prior to the applicable Trigger Event or subsequent adjustment by (y) the new Warrant Exercise Price determined in accordance with the first sentence of this Section 4(f).

(ii) In the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event with respect thereto described in clause (i) of this Section 4(f):

(1) upon the redemption or repurchase by the Company of any such rights or warrants without exercise by the holders thereof, (x) in the event that a Trigger Event shall have occurred and an adjustment to the Warrant Exercise Price and the Warrant Share Number shall have been made pursuant to clause (i) of this Section 4(f), the Warrant Exercise Price and the Warrant Share Number shall be readjusted as if such rights or warrants had not been distributed, and (y) whether or not a Trigger Event shall have occurred, the Warrant Exercise Price and the Warrant Share Number shall be adjusted or readjusted, as applicable, pursuant to the terms of Section 4(c) upon such redemption or repurchase as though it were a cash distribution equal to the per share redemption or repurchase consideration received by holders of shares of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants) made to all holders of shares of Common Stock as of the date of such redemption or repurchase, it being understood that if a readjustment has occurred pursuant to clause (x) above, the readjustment described in this clause (y) shall occur immediately following such readjustment made pursuant to clause (x); and

(2) in the event that a Trigger Event shall have occurred and an adjustment to the Warrant Exercise Price and the Warrant Share Number shall have been made pursuant to clause (i) of this Section 4(f), in the case all such rights or warrants shall have expired or been terminated without exercise by any holders thereof, the Warrant Exercise Price and the Warrant Share Number shall be readjusted as if such rights and warrants had not been distributed.

(iii) If the Company has a Rights Plan in effect with respect to its Common Stock, upon exercise of this Warrant, notwithstanding anything to the contrary in such Rights Plan, including any rights agreement or documents or instruments entered into as part of such Rights Plan, the Holder shall be entitled to receive, in addition to any shares of Common Stock, a corresponding number of rights under such Rights Plan, unless (A) a Trigger Event occurs prior to such exercise, in which case the adjustments (if any are required) to the Warrant Exercise Price and the Warrant Share Number with respect thereto shall be made in accordance with clause (i) of this Section 4(f), or (B) the Holder has provided written notice to the Company that it has elected not to receive such rights.

(iv) Any adjustment to the Warrant Exercise Price and the Warrant Share Number pursuant to this Section 4(f) shall be made subject in all respects to the other provisions of this Section 4 (but without duplication); provided, that Section 4(c) shall not apply, and shall be superseded by this Section 4(f), with respect to rights or warrants distributed (or deemed distributed) by the Company pursuant to a Rights Plan, except as expressly provided in clause (ii) of this Section 4(f).

(g) Rounding of Calculations; Minimum Adjustments. All calculations under this Section 4 shall be made to the nearest one-tenth (1/10th) of a cent or to the nearest one-hundredth (1/100th) of a share, as the case may be. No adjustment in the Warrant Exercise Price or the Warrant Share Number shall be made if the amount of such adjustment would be less than $0.01 or one-tenth (1/10th) of a share of Common Stock, but any such amount shall be carried forward and an adjustment with respect thereto shall be made at the earlier of (i) the Exercise Date and (ii) the time of and together with any subsequent adjustment which, together with such amount and any other amount or amounts so carried forward, shall aggregate $0.01 or 1/10th of a share of Common Stock, or more.

(h) Timing of Issuance of Additional Securities Upon Certain Adjustments. In any case in which (1) the provisions of this Section 4 shall require that an adjustment (the "Subject Adjustment") shall become effective immediately after a record date (the "Subject Record Date") for an event and (2) the Holder exercises this Warrant after the Subject Record Date and before the consummation of such event (or, if later, the calculation of the Fair Market Value, if applicable), the Company may defer until the consummation of such event (i) issuing or transferring to such Holder any additional shares of Common Stock or other property (including cash) issuable upon such exercise by reason of the Subject Adjustment and (ii) paying to such Holder any amount of cash in lieu of a fractional share of Common Stock; provided that the Company upon request shall promptly deliver to such Holder a due bill or other appropriate instrument evidencing such Holder's right to receive such additional shares and/or other property (including cash), as applicable, upon (and subject to) the consummation of such event (or completion of such calculation).

(i) Statement Regarding Adjustments. Whenever the Warrant Exercise Price or the Warrant Share Number shall be adjusted as provided in this Section 4, the Company shall as promptly as practicable prepare and deliver to the Holder a statement showing in reasonable detail the facts requiring such adjustment and the Warrant Exercise Price that shall be in effect and the Warrant Share Number after such adjustment.

(j) Adjustment Rules. Any adjustments pursuant to this Section 4 shall be made successively whenever an event referred to herein shall occur. If an adjustment in Warrant Exercise Price made hereunder would reduce the Warrant Exercise Price to an amount below par value of the Common Stock, then such adjustment in Warrant Exercise Price made hereunder shall reduce the Warrant Exercise Price to the par value of the Common Stock.

(k) Proceedings Prior to Any Action Requiring Adjustment. As a condition precedent to the taking of any action which would require an adjustment pursuant to this Section 4, the Company shall take such actions as are necessary, which may include obtaining regulatory, gaming, stock exchange or shareholder approvals or exemptions, in order that the Company may thereafter validly and legally issue as fully paid and non-assessable all shares of Common Stock that the Holder is entitled to receive upon exercise of this Warrant (assuming a Total Stock Settlement) pursuant to this Section 4 (assuming that as of the Exercise Date the Holder shall have made or secured (x) any and all filings, notifications, expirations or terminations of waiting periods, waivers, authorizations, approvals, permits, consents, clearances, rulings, findings of suitability or orders under any applicable Competition Laws and Gaming Laws, and (y) any and all Gaming Licenses, in each case required to be made or secured by the Holder in connection with such exercise of the Warrant).

5. Taxes.

(a) Withholding. The Company and its paying agent shall be entitled to deduct and withhold taxes on all payments and distributions (or deemed distributions) with respect to the Warrants (or upon the exercise thereof) or the Common Stock issued upon any exercise of any Warrant, in each case, to the extent required by applicable Law. To the extent that any amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes of this Warrant as having been paid to the Person in respect of which such deduction or withholding was made. In the event the Company previously remitted any amounts to a governmental authority on account of taxes required to be deducted or withheld in respect of any payment or distribution (or deemed distribution) with respect to a Warrant (or upon the exercise thereof) or the Common Stock issued upon any exercise of any Warrant, the Company shall be entitled (i) to offset any such amounts against any amounts otherwise payable in respect of such Warrant, any Warrant Shares otherwise issuable upon the exercise of such Warrant or any amount otherwise payable in respect of a Warrant Share received upon the exercise of such Warrant or Warrant Shares or any other amounts otherwise payable by the Company to the Holder, or (ii) to require the Person in respect of whom such deduction or withholding was made to reimburse the Company for such amounts (and such Person shall promptly so reimburse the Company upon demand). If the Company determines that any amounts should be deducted, withheld, offset or reimbursed under this Section 5(a), the Company shall use reasonable best efforts to (x) give prior written notice of such determination to the Holder at least five (5) days prior to making any such deduction, withholding, offset or reimbursement and (y) cooperate with the Holder to reduce or eliminate such deduction, withholding, offset or reimbursement.

(b) Transfer Taxes. The Company shall pay any and all documentary, stamp and similar issue or transfer tax due on (x) the issue of Warrants and (y) the issue of Warrant Shares pursuant to the exercise of a Warrant. However, in the case of the exercise of a Warrant, the Company shall not be required to pay any Transfer Tax that may be payable in respect of the issue or delivery (or any transfer involved in the issue or delivery) of Warrant Shares to a beneficial owner other than the beneficial owner of the Warrant immediately prior to the event pursuant to which such issue or delivery is required, and no such issue or delivery shall be made unless and until the Person requesting such issue or delivery has paid to the Company the amount of any such Transfer Tax or has established to the satisfaction of the Company that such Transfer Tax has been paid or is not payable.

(c) Tax Treatment. The Company and the Holder agree to treat (i) the Warrants as being issued in connection with the performance of services within the meaning of Section 83 of the U.S. Internal Revenue Code of 1986, as amended (the "Code") and (ii) the Warrants as not having a "readily ascertainable" fair market value, as defined in U.S. Treasury Regulations Section 1.83-7(b), at the time of grant and as nonqualified stock options governed by U.S. Treasury Regulations Section 1.83-7(a). Neither the Company nor the Holder shall take any position for tax purposes that is inconsistent with this Section 5(c), unless required by a determination within the meaning of Section 1313(a) of the Code.

6. Transferability of Warrants.

(a) This Warrant may be Transferred only in accordance with this Section 6 and the terms of the Investment Agreement. Subject to compliance with this Section 6, the legend as set forth on the cover page of this Warrant and the terms of the Investment Agreement, this Warrant may be Transferred, in whole or in part, upon the books of the Company by the registered holder hereof in person or by duly authorized attorney, and a new Warrant shall be made and delivered by the Company, of the same tenor and date as this Warrant but registered in the name of one or more transferees, upon surrender of this Warrant, duly endorsed, to the Company's principal office. If the Transferring Holder does not Transfer the entirety of its rights to receive all the Warrant Consideration hereunder, such Holder shall be entitled to receive from the Company a new Warrant in substantially identical form for the right to receive that amount of Warrant Consideration which was not so Transferred. All expenses (including stock transfer taxes) and other charges payable in connection with the preparation, execution and delivery of the new Warrant pursuant to this Section 6 shall be paid by the Holder.

(b) If and for so long as required by this Warrant, any Warrant certificate or book-entry interest issued hereunder shall contain a legend as set forth on the cover page of this Warrant.

(c) The Holder acknowledges that it will not offer, sell or otherwise dispose of this Warrant or any Warrant Shares to be issued upon exercise hereof except pursuant to an effective registration statement, or an exemption from registration, under the Act and any applicable state securities laws.

(d) Any Transfer by the Holder of the Warrant shall be subject to and conditional upon the prior making and receipt of any and all filings, notifications, expirations of waiting periods, waivers, authorizations, approvals, permits, consents, rulings, findings of suitability or orders under any applicable Competition Laws and Gaming Laws, and any and all Gaming Licenses, in each case necessary in connection with the Transfer of the Warrant.

(e) The Holder shall be permitted to Transfer the Warrant and its rights hereunder (in whole or in part), in each case so long as such Transfer is in accordance with applicable Law and the provisions of the Company Charter Documents, and subject to the provisions of this Section 6 and to Section 5.07 of the Investment Agreement, provided that (i) the Holder shall not have any right to Transfer the unvested portion of the Warrant and its rights thereunder (in whole or in part) to any Person other than an Affiliate of the Holder, (ii) upon a Transfer of the Warrant (in whole or in part) to a Person other than an Affiliate of the Holder, the Warrant (or such portion of the Warrant) so transferred shall immediately be deemed to have been exercised in full pursuant to Section 2(c), and, the Company shall have the right, at its sole and absolute discretion, to settle the exercise in favor of the transferee via a Total Stock Settlement, a Total Cash Settlement or a Mixed Cash/Stock Settlement under Sections 2(c) and 2(d) and (iii) the Company agrees not to cause the adoption of any amendment to the Company Charter Documents that would be adverse in any material respect to the rights of Holder to Transfer the Warrants and its rights hereunder (in whole or in part).

(f) Any Transfer or attempted Transfer of the Warrant in violation of this Section 6 shall be null and void *ab initio*, and the Company shall not, and shall instruct its transfer agent and other third parties not to, record or recognize any such purported transaction on the share register or other books and records of the Company.

7. Definitions. For the purposes of this Warrant, the following terms have the following meanings:

"20-Day VWAP" has the meaning specified in Section 2(c) hereof.

"Act" has the meaning specified under the legend hereto.

"Action" has the meaning specified under the Investment Agreement.

"Affiliate" has the meaning specified under the Investment Agreement.

"Aggregate Consideration" has the meaning specified in Section 4(b) hereof.

"Business Combination" means a merger, consolidation, statutory share exchange, reorganization, recapitalization or similar extraordinary transaction (which may include a reclassification) involving the Company.

"Business Day" has the meaning specified under the Investment Agreement.

"Code" has the meaning specified in Section 5(c) hereof.

"Common Stock" means the common stock, $0.01 par value, of the Company.

"Company" has the meaning specified in the preamble hereof.

"Company Charter Documents" means the Company's certificate of incorporation and bylaws, each as amended.

"Competition Laws" has the meaning specified under the Investment Agreement.

"conversion" has the meaning specified in Section 4(b) hereof.

"convertible securities" has the meaning specified in Section 4(b) hereof.

"Excess Warrant Shares" means in the case that the number of Warrant Shares and the shares of Common Stock potentially issuable by the Company pursuant to any other warrant issued pursuant to the Investment Agreement, in the aggregate, is more than 19.9% of the number of shares of Common Stock outstanding immediately prior to the Initial Closing (the "Conversion Cap"), the Warrant Shares that are in excess of the Conversion Cap (rounded up to the nearest whole share).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exercise Date" has the meaning specified in Section 2(c) hereof.

"Fair Market Value" means, with respect to any security or other property, the fair market value of such security or other property as determined in good faith by the Board of Directors of the Company, in reliance on an opinion of a nationally recognized independent investment banking firm retained by the Company for this purpose, and evidenced by a written notice delivered to the Holder. For the avoidance of doubt, the Fair Market Value of cash shall be the amount of such cash.

"Gaming Laws" has the meaning specified under the Investment Agreement.

"Gaming Licenses" has the meaning specified under the Investment Agreement.

"Holder" means the Person or Persons who shall from time to time own this Warrant.

"Initial Closing" has the meaning specified under the Investment Agreement.

"Initial Number" has the meaning specified in Section 4(b) hereof.

"Investment Agreement" has the meaning specified in the preamble hereof.

"Issuable Warrant Shares" has the meaning specified in Section 2(c) hereof.

"Judgment" has the meaning specified under the Investment Agreement.

"Law" has the meaning specified under the Investment Agreement.

"Market Disruption Event" means (i) a failure by the Principal Trading Market to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m. (New York City time) on any scheduled trading day for the Common Stock or other relevant security for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or other relevant security or in any options contracts or futures contracts relating to the Common Stock or other relevant security.

"Market Price" means, with respect to the Common Stock or any other security, on any given day, the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, of the shares of the Common Stock or of such security, as applicable, on the principal exchange or market on which the Common Stock or such security, as applicable, is so listed or quoted.

"Mixed Cash/Stock Settlement" has the meaning specified in Section 2(c) hereof.

"Nasdaq Rules" means the rules and regulations of the Nasdaq Stock Market.

"Permitted Transactions" has the meaning specified in Section 4(b) hereof.

"Person" means an individual or any corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or other entity.

"Post-Issuance Adjustment" has the meaning specified in Section 4(b) hereof.

"Pre-Trigger Event Date" has the meaning specified in Section 4(f)(i).

"Pricing Date" has the meaning specified in Section 4(b) hereof.

"Principal Trading Market" means, with respect to the Common Stock or other relevant security, the trading market on which the Common Stock (or any successor security thereto) or other relevant security, respectively, is primarily listed or admitted for trading. As of the date of this Warrant, the Principal Trading Market with respect to the Common Stock is The NASDAQ Global Select Market.

"Pro Rata Repurchase" means any purchase of shares of Common Stock by the Company or any Affiliate thereof pursuant to (A) any tender offer or exchange offer subject to Section 13(e) of the Exchange Act, or (B) pursuant to any other offer available to substantially all holders of Common Stock, in each case whether for cash, shares of capital stock of the Company, other securities of the Company, evidences of indebtedness of the Company or any other Person or any other property, or any combination thereof, effected while this Warrant is outstanding; provided, however, that "Pro Rata Repurchase" shall not include any purchase of shares by the Company or any Affiliate thereof made in accordance with the requirements of Rule 10b-18 as in effect under the Exchange Act. The "Effective Date" of a Pro Rata Repurchase shall mean the date of acceptance of shares for purchase or exchange under any tender or exchange offer which is a Pro Rata Repurchase or the date of purchase with respect to any Pro Rata Repurchase that is not a tender or exchange offer.

"Required Shareholder Approval" means any approval by the shareholders of the Company necessary for the issuance of the Excess Warrant Shares issuable upon the exercise of the Holder's rights under this Warrant.

"Rights Plan" has the meaning specified in Section 4(f)(i).

"SEC" means the U.S. Securities and Exchange Commission.

"Settlement Date" has the meaning specified in Section 2(d) hereof.

"Subsidiaries" has the meaning specified under the Investment Agreement.

"Term" has the meaning specified in Section 1 hereof.

"Total Cash Settlement" has the meaning specified in Section 2(c) hereof.

"Total Stock Settlement" has the meaning specified in Section 2(c) hereof.

"Trading Day" means a day on which the Principal Trading Market is open for trading. For the purposes of determining amounts due upon conversion only, "Trading Day" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Common Stock or other relevant security generally occurs on the Principal Trading Market. If the Common Stock or other relevant security is not listed or admitted for trading on a trading market, "Trading Day" means a "Business Day."

"Transfer" has the meaning specified under the Investment Agreement.

"Trigger Event" has the meaning specified in Section 4(f)(i).

"Warrant" means this Warrant and any other warrants of like tenor issued in substitution or exchange for any thereof pursuant to the provisions of Section 2(d) hereof.

"Warrant Consideration" means the consideration the Holder receives via a Total Stock Settlement, a Total Cash Settlement or a Mixed Cash/Stock Settlement.

"Warrant Exercise Price" means $[·], subject to adjustment as set forth herein.

"Warrant Share Number" means [·], subject to adjustment as set forth herein.

"Warrant Shares" means shares of Common Stock issuable upon exercise of this Warrant. For the avoidance of doubt, the Company may, at its sole and absolute discretion, determine a form of Warrant Consideration other than Warrant Shares under Section 2(c) hereof.

8. Amendment and Waiver. Any term, covenant, agreement or condition in this Warrant may be amended, or compliance therewith may be waived (either generally or in a particular instance and either retroactively or prospectively), by a written instrument or written instruments executed by the Company and the Holder.

9. Governing Law; Jurisdiction. This Warrant, and all Actions that may be based upon, arising out of or relating to this Warrant or any of the transactions contemplated hereby or the negotiation, execution or performance of this Warrant (including any claim or cause of action based upon, arising out of or relating to any representation or warranty made in or in connection with this Warrant or as an inducement to enter into this Warrant), shall be governed by and construed in accordance with the internal laws of the State of New York, including its statute of limitations, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws. Each of the parties hereto irrevocably and unconditionally, with respect to any Action arising out of or relating to this Warrant or the transactions contemplated hereby, (a) agrees to submit to the exclusive jurisdiction of the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, and appellate courts thereof, (b) agrees that it will not attempt to deny or defeat such jurisdiction by motion or other request for leave from such court, (c) waives any objection to the laying of venue in such court, (d) waives and agrees not to plead or claim in any such court that such Action brought in any such court has been brought in an inconvenient forum and (e) agrees that it will not bring any such Action in any court other than the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, or, if (and only if) such court finds it lacks subject matter jurisdiction, the federal court of the United States of America sitting in New York, and appellate courts thereof, or, if (and only if) each such court for the State of New York and such federal court finds it lacks subject matter jurisdiction, any state court within the State of New York. Each of the parties hereto further agrees that, to the fullest extent permitted by applicable Law, service of any process, summons, notice or document to any party's address and in the manner set forth in Section 10 shall be effective service of process for any such Action. The parties hereto agree that irreparable damage for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Warrant in accordance with its specified terms or otherwise breach such provisions. Accordingly, the parties acknowledge and agree that the parties hereto shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Warrant and to enforce specifically the terms and provisions hereof in the courts described in this Section 9 without proof of damages or otherwise, this being in addition to any other remedy to which they are entitled under this Warrant, and this right of specific enforcement is an integral part of the terms of this Warrant. The parties hereto agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to Law or inequitable for any reason, and agree not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at law. The parties hereto acknowledge and agree that any party shall not be required to provide any bond or other security in connection with its pursuit of an injunction or injunctions to prevent breaches of this Warrant and to enforce specifically the terms and provisions hereof.

10. Notices. All notices, requests and other communications to any party hereunder shall be in writing and shall be deemed given if delivered personally, by email (except in the event of any "bounceback" or similar non-transmittal message) or sent by overnight courier to the parties at the following addresses (or at such other address for a party hereto as shall be specified in a notice given in accordance with this Section 10):

(a) If to the Holder:

ESPN, Inc.
ESPN Plaza
935 Middle Street
Bristol, CT 06010
Attn: Bryan Castellani; Eleanor S. DeVane
Email: Bryan.Castellani@espn.com; Eleanor.S.DeVane@espn.com

with a copy (which shall not constitute notice) to:

The Walt Disney Company
500 South Buena Vista Street
Burbank, California 91521-1245
Attn: James Kapenstein
Email: James.Kapenstein@disney.com

and a copy (which shall not constitute notice) to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
Attn: Daniel Cerqueira
George Schoen
Email: DCerqueira@cravath.com
GSchoen@cravath.com

(b) If to the Company:

PENN Entertainment, Inc.
825 Berkshire Blvd., Suite 200
Wyomissing, Pennsylvania 19610
Attn: Chief Strategy Officer
Email: chris.rogers@pennentertainment.com

with a copy to (which copy alone shall not constitute notice):

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Zachary S. Podolsky
Email: ZSPodolsky@wlrk.com

All such notices, requests and other communications shall be deemed received on the date of delivery.

11. Successors and Assigns. This Warrant and the rights evidenced hereby shall inure to the benefit of and be binding upon the Company and the Holder and their respective successors and permitted assigns (subject to Section 2(f) and Section 6 with respect to the Holder).

12. Modification and Severability. The provisions of this Warrant will be deemed severable and the invalidity or unenforceability of any provision will not affect the validity or enforceability of any other provision hereof. To the fullest extent permitted by law, if any provision of this Warrant, or the application thereof to any Person or circumstance, is invalid or unenforceable (a) a suitable and equitable provision will be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Warrant and the application of such provision to other Persons, entities or circumstances will not be affected by such invalidity or unenforceability.

13. Interpretation. When a reference is made in this Warrant to a Section, such reference shall be to a Section of this Warrant unless otherwise indicated. The headings contained in this Warrant are for reference purposes only and shall not affect in any way the meaning or interpretation of this Warrant. Whenever the words "include," "includes" or "including" are used in this Warrant, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Warrant shall refer to this Warrant as a whole and not to any particular provision of this Warrant unless the context requires otherwise. The words "date hereof" when used in this Warrant shall refer to the date of this Warrant. The terms "or," "any" and "either" are not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if." The word "will" shall be construed to have the same meaning and effect as the word "shall." All terms defined in this Warrant shall have the defined meanings when used in any document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Warrant are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Unless otherwise specifically indicated, all references to "dollars" or "$" shall refer to the lawful money of the United States. All payments in "cash" pursuant to this Warrant shall be by wire transfer of immediately available funds. All payments by wire transfer of immediately available funds pursuant to this Warrant shall be in the lawful money of the United States. References to a Person are also to its permitted assigns and successors. When calculating the period of time between which, within which or following which any act is to be done or step taken pursuant to this Warrant, the date that is the reference date in calculating such period shall be excluded (unless otherwise required by Law, if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day).

[*Signature pages follow*]

IN WITNESS WHEREOF, the Company has duly executed this Warrant.

Dated: [___].

PENN ENTERTAINMENT, INC.

By: _____
Name:
Title:

[*Signature Page to Warrant*]

Agreed and Acknowledged:

ESPN, INC.

By: _____
Name:
Title:

[*Signature Page to Warrant*]

EXERCISE FORM
(To be executed by the registered holder hereof)

The undersigned registered owner of this Warrant hereby irrevocably elects to exercise the right to receive the consideration represented by the attached Warrant in respect of _____ shares of Common Stock, par value $0.01 per share (the "Common Stock"), of PENN ENTERTAINMENT, INC., a Pennsylvania corporation (the "Company"), as provided for therein, and tenders herewith payment of the exercise price in full in accordance with Section 2(c) and the other terms and conditions of the Warrant. All capitalized terms used but not defined in this exercise form shall have the meanings ascribed thereto in the Warrant.

It is acknowledged that the Company, at its sole and absolute discretion, may effect settlement of the Warrant via a Total Stock Settlement, a Total Cash Settlement or a Mixed Cash/Stock Settlement in accordance with the terms and conditions of the Warrant. Please transfer an amount equal to [_____][the full amount] of the Warrant Consideration to the undersigned by (A) book-entry transfer crediting the account of the undersigned through the Company's transfer agent and registrar for the Common Stock the relevant number of shares of Common Stock issued in the name of the undersigned and/or (B) making a payment by wire transfer of immediately available funds to the following account:

Account Holder:
Bank:
Address:
Account No.:
Routing Number:
SWIFT CODE:
Contact for Callback:

If the number of shares of Common Stock and the payment specified above shall not be in respect of all the Warrant Shares potentially issuable upon exercise of the Warrant, a new Warrant is to be issued in the name of the undersigned for the balance remaining of such shares of Common Stock.

Dated: _____ Name of Holder _____

Signature _____

Address _____

ASSIGNMENT FORM
(To be executed by the registered holder hereof)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the within Warrant and all rights evidenced thereby and does irrevocably constitute and appoint _____, attorney, to transfer the said Warrant on the books of the within named corporation.

Dated: _____ Signature _____

Address _____

PARTIAL ASSIGNMENT
(To be executed by the registered holder hereof)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right to receive a Warrant with a Warrant Share Number (as defined in the attached Warrant) equal to _____, and does irrevocably constitute and appoint _____, attorney, to transfer that part of the said Warrant on the books of the within named corporation.

Dated: _____ Signature _____

Address _____

FOR USE BY THE ISSUER ONLY:

This Warrant No. W-[·] canceled (or transferred or exchanged) this day of _____, 20__, [_____ shares of Common Stock issued] [and] [payment by wire transfer of immediately available funds of $ _____] therefor in the name of _____, Warrant No. W-[·] issued for shares of Common Stock in the name of _____.

Exhibit 4.3

REGISTRATION RIGHTS AGREEMENT

by and between

PENN ENTERTAINMENT, INC.,

and

ESPN, INC.

Dated as of August 8, 2023

TABLE OF CONTENTS

ARTICLE V

Miscellaneous

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this "Agreement") is entered into as of August 8, 2023 (this "Agreement"), by and between PENN Entertainment, Inc., a Pennsylvania corporation (the "Company"), and ESPN, Inc., a Delaware corporation (the "Purchaser"). Capitalized terms used but not defined elsewhere herein are defined in Exhibit A. The Purchaser and any other Person that may become a party hereto pursuant to Section 4.1 are referred to collectively as the "Investors" and individually each as an "Investor".

WHEREAS, the Company and the Purchaser are parties to the Investment Agreement, dated as of August 8, 2023 (as it may be amended from time to time in accordance with the terms thereof, the "Investment Agreement"), pursuant to which (a) on the date hereof, the Company is issuing and delivering to the Purchaser, and the Purchaser is receiving from the Company, warrants to purchase 31,828,834 shares (subject to adjustment in accordance with the terms of such warrants) of Common Stock (subject to the Company's right, at its sole and absolute discretion, to effect settlement via a Total Cash Settlement or a Mixed Cash/Stock Settlement) (as they may be amended from time to time in accordance with the terms thereof, the "Initial Warrants") and (b) following the date hereof, the Company will issue certain additional warrants to purchase additional shares (subject to adjustment in accordance with the terms of such warrants) of Common Stock (subject to the Company's right, at its sole and absolute discretion, to effect settlement via a Total Cash Settlement or a Mixed Cash/Stock Settlement) if certain performance metrics set forth in the Investment Agreement are met (as they may be amended from time to time in accordance with the terms thereof, the "Bonus Warrants", and, together with the Initial Warrants, the "Warrants", and the shares of Common Stock underlying the Warrants, the "Warrant Shares"); and

WHEREAS, as a condition to the obligations of the Company and the Purchaser under the Investment Agreement, the Company and the Purchaser are entering into this Agreement for the purpose of granting certain registration rights to the Investors.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE I

Resale Shelf Registration

Section 1.1 Resale Shelf Registration Statement. Subject to Section 2.2, upon the written request of any Holder, the Company shall use reasonable best efforts to prepare and file as promptly as reasonably practicable (and in any event no later than 30 days following any such written request) a registration statement covering the sale or distribution from time to time by the Holders, on a delayed or continuous basis pursuant to Rule 415 of the Securities Act, of all of the Registrable Securities on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, then such registration shall be on another appropriate form and shall provide for the registration of such Registrable Securities for resale by the Holders in accordance with any reasonable method of distribution elected by the Holders) (any such registration statement, the "Resale Shelf Registration Statement") and shall use reasonable best efforts to cause such Resale Shelf Registration Statement to be declared effective by the SEC as promptly as reasonably practicable after the filing thereof (it being agreed that the Resale Shelf Registration Statement shall be an automatic shelf registration statement that shall become effective upon filing with the SEC pursuant to Rule 462(e) if Rule 462(e) is then available to the Company).

Section 1.2 Effectiveness Period. Once effective, the Company shall, subject to Section 2.2, use reasonable best efforts to cause the Resale Shelf Registration Statement to be continuously effective and usable until such time as there are no longer any Registrable Securities (the "Effectiveness Period").

Section 1.3 Subsequent Shelf Registration Statement. If any Shelf Registration Statement ceases to be effective under the Securities Act for any reason at any time during the Effectiveness Period, the Company shall use reasonable best efforts to as promptly as is reasonably practicable cause such Shelf Registration Statement to again become effective under the Securities Act (including obtaining the prompt withdrawal of any order suspending the effectiveness of such Shelf Registration Statement), and shall use reasonable best efforts to as promptly as is reasonably practicable amend such Shelf Registration Statement in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Shelf Registration Statement or file an additional registration statement (a "Subsequent Shelf Registration Statement") for an offering to be made on a delayed or continuous basis pursuant to Rule 415 of the Securities Act registering the resale from time to time by the Holders thereof of all securities that are Registrable Securities as of the time of such filing. If a Subsequent Shelf Registration Statement is filed, the Company shall use reasonable best efforts to (a) cause such Subsequent Shelf Registration Statement to become effective under the Securities Act as promptly as is reasonably practicable after the filing thereof (it being agreed that the Subsequent Shelf Registration Statement shall be an automatic shelf registration statement that shall become effective upon filing with the SEC pursuant to Rule 462(e) if Rule 462(e) is then available to the Company) and (b) keep such Subsequent Shelf Registration Statement continuously effective and usable until the end of the Effectiveness Period. Any such Subsequent Shelf Registration Statement shall be a registration statement on Form S-3 if the Company is then eligible to use such form. Otherwise, such Subsequent Shelf Registration Statement shall be on another appropriate form and shall provide for the registration of such Registrable Securities for resale by the Holders in accordance with any reasonable method of distribution elected by the Holders.

Section 1.4 Supplements and Amendments. The Company shall supplement and amend any Shelf Registration Statement if required by the Securities Act or the rules, regulations or instructions applicable to the registration form used by the Company for such Shelf Registration Statement.

Section 1.5 Subsequent Holder Notice. If a Person entitled to the benefits of this Agreement becomes a Holder after a Shelf Registration Statement becomes effective under the Securities Act, the Company shall, as promptly as is reasonably practicable following delivery of written notice to the Company of such Person becoming a Holder and requesting for its name to be included as a selling securityholder in the prospectus related to the Shelf Registration Statement (a "Subsequent Holder Notice"):

(a) if required and permitted by applicable Law, file with the SEC a supplement to the related prospectus or a post-effective amendment to the Shelf Registration Statement so that such Holder is named as a selling securityholder in the Shelf Registration Statement and the related prospectus in such a manner as to permit such Holder to deliver a prospectus to purchasers of the Registrable Securities in accordance with applicable Law; provided, however, that the Company shall not be required to file more than one post-effective amendment or a supplement to the related prospectus for such purpose in any 30-day period;

(b) if, pursuant to Section 1.5(a), the Company shall have filed a post-effective amendment to the Shelf Registration Statement that is not automatically effective, use reasonable best efforts to cause such post-effective amendment to become effective under the Securities Act as promptly as is reasonably practicable; and

(c) notify such Holder as promptly as is reasonably practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to Section 1.5(a).

Section 1.6 Shelf Take-Downs.

(a) Subject to any applicable restrictions on transfer in the Investment Agreement or under applicable Law, at any time that any Shelf Registration Statement is effective, if a Holder delivers a notice to the Company stating that it intends to effect a sale or distribution of all or part of its Registrable Securities included by it on any Shelf Registration Statement (a "Shelf Offering") and stating the number of the Registrable Securities to be included in such Shelf Offering, then the Company shall, subject to Section 2.2 and the last paragraph of Section 2.1, amend or supplement the Shelf Registration Statement as may be necessary in order to enable such Registrable Securities to be sold and distributed pursuant to the Shelf Offering. Subject to Section 5.07 of the Investment Agreement, any Shelf Offering may be made by and pursuant to any method or combination of methods legally available to the applicable Holder(s) (including an underwritten offering, a direct sale to purchasers, a sale to or through brokers, dealers or agents, a sale over the internet, block sales, forward sales and other derivative transactions with third parties, sales in connection with short sales and other hedging transactions). The Company shall comply with the applicable provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by the Shelf Registration Statement in accordance with the intended methods of disposition by the Holder(s) participating in such Shelf Offering, including, in the case of the Company, by causing the "Plan of Distribution" section of the Shelf Registration Statement to permit any method or combination of methods legally available to the applicable Holder(s).

(b) Subject to any applicable restrictions on transfer in the Investment Agreement or under applicable Law, a Holder may, after any Shelf Registration Statement becomes effective, deliver a written notice to the Company (an "Underwritten Shelf Take-Down Notice") specifying that a Shelf Offering is intended to be conducted through an Underwritten Offering (such Underwritten Offering, an "Underwritten Shelf Take-Down"), which shall specify the number of Registrable Securities intended to be included in such Underwritten Shelf Take-Down; provided, however, that the Holders may not, without the Company's prior written consent, (i) launch an Underwritten Shelf Take-Down the anticipated gross proceeds of which shall be less than $150 million (except for any Holder that is proposing to sell all of its remaining Registrable Securities) or (ii) launch an Underwritten Shelf Take-Down if the Holders have effected six (6) Underwritten Shelf Take-Downs (and in any case no more than two (2) Underwritten Shelf Take-Downs in any twelve (12)-month period) pursuant to this Section 1.6(b), (iii) launch an Underwritten Shelf Take-Down within the period commencing 20 days prior to and ending two (2) days following the Company's scheduled earnings release date for any fiscal quarter or year. In the event there is more than one Holder at the time of an Underwritten Shelf Take-Down that is a Marketed Underwritten Offering, the Company shall deliver the Underwritten Shelf Take-Down Notice to the other Holders whose Registrable Securities have been included on such Shelf Registration Statement and permit any such other Holder to include its Registrable Securities included on such Shelf Registration Statement in such Underwritten Shelf Take-Down that is a Marketed Underwritten Offering if any such other Holder notifies the Holder that delivered the related Underwritten Shelf Take-Down Notice and the Company within three (3) Business Days after delivery of the Underwritten Shelf Take-Down Notice to such other Holder.

(c) In the event of an Underwritten Shelf Take-Down, the Holder delivering the related Underwritten Shelf Take-Down Notice shall select the managing underwriter(s) to administer the Underwritten Shelf Take-Down; provided that the choice of such managing underwriter(s) shall be subject to the consent of the Company, which is not to be unreasonably withheld or delayed. The Company and the Holder(s) participating in an Underwritten Shelf Take-Down will enter into an underwriting agreement in customary form with the managing underwriter or underwriters selected for such offering.

(d) The Company will not include in any Underwritten Shelf Take-Down pursuant to this Section 1.6 any securities that are not Registrable Securities without the prior written consent of the Holder(s) participating in such Underwritten Shelf Take-Down. In the case of an Underwritten Shelf Take-Down that is a Marketed Underwritten Offering, if the managing underwriter or underwriters advise the Company and the Holder(s) participating in such Underwritten Shelf Take-Down in writing that in its or their good faith opinion the number of Registrable Securities (and, if permitted hereunder, other securities) requested to be included in such offering exceeds the number of securities which can be sold in such offering in light of market conditions or is such so as to adversely affect the success of such offering, the Company will include in such offering only such number of securities that can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, the Registrable Securities of the Holder(s) that have requested to participate in such Underwritten Shelf Take-Down, allocated *pro rata* among such Holders on the basis of the percentage of the Registrable Securities requested to be included in such offering by such Holders, and (ii) second, any other securities of the Company that have been requested to be so included.

Section 1.7 Piggyback Registration.

(a) If (i) the Company proposes to file a registration statement under the Securities Act with respect to an offering of Common Stock or securities convertible into, or exchangeable or exercisable for, Common Stock, whether or not for sale for its own account (other than a registration statement (A) on Form S-4, Form S-8 or any successor forms thereto, (B) filed to effectuate an exchange offer or any employee benefit or dividend reinvestment plan, (C) filed in respect of Common Stock issued or issuable upon exchange or exercise of any Exchangeable Shares), in a manner that would permit registration of the Registrable Securities for sale for cash to the public under the Securities Act or (D) filed as a universal shelf registration statement on Form S-3 not in connection with any particular offering (provided, for the avoidance of doubt, that any proposed filing of a prospectus supplement with respect to an offering of Common Stock or securities convertible into, or exchangeable or exercisable for, Common Stock shall be subject to this Section 1.7) or (ii) the Holders' Registrable Securities are then registered on a Shelf Registration Statement and the Company or any of its shareholders proposes to undertake an Underwritten Offering of shares of Common Stock for cash, then the Company shall give prompt written notice of such filing or proposed Underwritten Offering, as applicable, which notice shall be given no later than seven (7) Business Days prior to the filing date or proposed Underwritten Offering launch date, as applicable (the "Piggyback Notice"), to the Holders. The Piggyback Notice shall offer the Holders the opportunity to include (or cause to be included) in such registration statement or Underwritten Offering, as applicable, the number of shares of Registrable Securities as each such Holder may request (a "Piggyback Registration Statement" and a "Piggyback Offering ", respectively). Subject to Section 1.7(b), the Company shall cause to be included in each Piggyback Registration Statement and each Piggyback Offering all Registrable Securities with respect to which the Company has received written requests for inclusion therein (each, a "Piggyback Request") within five (5) Business Days after the date of the Piggyback Notice. The Company shall not be required to maintain the effectiveness of a Piggyback Registration Statement beyond the earlier of (x) 120 days after the effective date thereof and (y) consummation of the distribution by the Holders included in such registration statement. The Company may withdraw a Piggyback Registration Statement or a Piggyback Offering at any time prior to any sales being made pursuant to the Piggyback Registration Statement or Piggyback Offering without incurring any liability to the Holders, in which case the Company shall be relieved of its obligation to register the Registrable Securities solely with respect to such withdrawn Piggyback Registration Statement or Piggyback Offering.

(b) If any of the securities to be registered pursuant to the registration giving rise to the rights under this Section 1.7 are to be sold in an Underwritten Offering, the Company shall use reasonable best efforts to cause the managing underwriter or underwriters of a proposed Underwritten Offering to permit Holders who have timely submitted a Piggyback Request in connection with such offering to include in such offering all Registrable Securities included in each Holder's Piggyback Request on the same terms and subject to the same conditions as any other shares of capital stock, if any, of the Company and any of its shareholders included in the Underwritten Offering. Notwithstanding the foregoing, if the managing underwriter or underwriters of such offering advise the Company in writing that in its or their good faith opinion the number of securities exceeds the number of securities which can be sold in such offering in light of market conditions or is such so as to adversely affect the success of such offering, the Company will include in such Underwritten Offering only such number of securities that can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, the securities proposed to be sold by the Company for its own account and (ii) second, the Registrable Securities of the Holders and any other persons with piggyback registration rights who have the right to participate and that have requested to participate in such offering, allocated *pro rata* among the selling shareholders according to the total amount of securities entitled to be included therein owned by each selling shareholder and its Affiliates (other than the Company) or in such other proportions as shall mutually be agreed to by such selling shareholders.

ARTICLE II

Additional Provisions Regarding Registration Rights

Section 2.1 Registration Procedures. Subject to the other applicable provisions of this Agreement, in the case of each registration of Registrable Securities effected by the Company pursuant to Article I, the Company will:

(a) prepare and promptly file with the SEC a registration statement with respect to such securities and use reasonable best efforts to cause such registration statement to become and remain effective for the period of the distribution contemplated thereby, in accordance with the applicable provisions of this Agreement;

(b) prepare and file with the SEC such amendments (including post-effective amendments) and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to keep such registration statement effective for the period specified in paragraph (a) above and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement in accordance with the Holders' intended method of distribution set forth in such registration statement for such period;

(c) furnish to the Holders copies of the registration statement and the prospectus included therein (including each preliminary prospectus) proposed to be filed and provide such legal counsel a reasonable opportunity to review and comment on such registration statement;

(d) if requested by the managing underwriter or underwriters, if any, or the Holders, promptly include in any prospectus supplement or post-effective amendment such information as the managing underwriter or underwriters, if any, or the Holders may reasonably request in order to permit the intended method of distribution of such securities and make all required filings of such prospectus supplement or post-effective amendment as soon as reasonably practicable after the Company has received such request; provided, however, that the Company shall not be required to take any actions under this Section 2.1(d) that are not, in the opinion of counsel for the Company, in compliance with applicable Law;

(e) in the event that the Registrable Securities are being offered in an Underwritten Offering, furnish to the Holders and to the underwriters of the securities being registered such reasonable number of copies of the registration statement, preliminary prospectus and final prospectus as the Holders or such underwriters may reasonably request in order to facilitate the public offering or other disposition of such securities;

(f) as promptly as reasonably practicable notify the Holders at any time when a prospectus relating thereto is required to be delivered under the Securities Act or of the Company's discovery of the occurrence of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in the light of the circumstances then existing, and, subject to Section 2.2, at the request of the Holders, prepare as promptly as is reasonably practicable and furnish to the Holders a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the Holders of such securities, such prospectus shall not include 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 not misleading or incomplete in the light of the circumstances then existing;

(g) use reasonable best efforts to register and qualify (or exempt from such registration or qualification) the securities covered by such registration statement under such other securities or "blue sky" Laws of such jurisdictions within the United States as shall be reasonably requested in writing by the Holders; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (i) qualify to do business in any jurisdictions where it would not otherwise be required to qualify but for this subsection or (ii) take any action that would subject it to general service of process in any such jurisdictions;

(h) in the event that the Registrable Securities are being offered in an underwritten public offering, enter into an underwriting agreement, a placement agreement or equivalent agreement, in each case in accordance with the applicable provisions of this Agreement;

(i) in connection with an Underwritten Offering, the Company shall cause its officers to use their reasonable best efforts to support the marketing of the Registrable Securities covered by such offering, including by participating in management presentations (including "electronic road shows"), investor calls and the preparation of related materials to support the proposed sale of Registrable Securities pursuant to such Underwritten Offering (it being understood that the Company and its officers shall not be obligated to participate in any in-person road show presentations);

(j) use reasonable best efforts to furnish, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, (i) one or more opinions dated such date of the legal counsel (and any local counsel) representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and (ii) a "negative assurances letter", dated such date of the legal counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering;

(k) use reasonable best efforts to furnish (i) a "comfort" letter on, and dated as of, the date of pricing of the offering and (ii) a bring-down "comfort" letter on, and dated as of, the date that such Registrable Securities are delivered to the underwriters for sale, in the case of each of clauses (i) and (ii), from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters;

(l) in the event that the Registrable Securities covered by such registration statement are shares of Common Stock, use reasonable best efforts to list the Registrable Securities covered by such registration statement with any securities exchange on which the Common Stock is then listed;

(m) provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of such registration statement;

(n) in connection with a customary due diligence review, make available for inspection by the Holders, any underwriter participating in any such disposition of Registrable Securities, if any, and any counsel or accountants retained by the Holders or underwriter (collectively, the "Offering Persons"), at the offices where normally kept or electronically, during reasonable business hours, all financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and cause the officers, directors and employees of the Company and its subsidiaries to supply all information and participate in customary due diligence sessions in each case reasonably requested by any such representative, underwriter, counsel or accountant in connection with such registration statement; provided, however, that any information that is not generally publicly available at the time of delivery of such information shall be kept confidential by such Offering Persons unless (i) disclosure of such information is required by court or administrative order or in connection with an audit or examination by, or a blanket document request from, a regulatory or self-regulatory authority, bank examiner or auditor, (ii) disclosure of such information, in the reasonable judgment of the Offering Persons, is required by Law or applicable legal process (including in connection with the offer and sale of securities pursuant to the rules and regulations of the SEC), (iii) such information is or becomes generally available to the public other than as a result of a non-permitted disclosure or failure to safeguard by such Offering Persons in violation of this Agreement or (iv) such information (A) was known (after due inquiry) to such Offering Persons (prior to its disclosure by the Company) from a source other than the Company when such source, to the knowledge of the Offering Persons, was not bound by any contractual, legal or fiduciary obligation of confidentiality to the Company with respect to such information, (B) becomes available to the Offering Persons from a source other than the Company when such source, to the knowledge of the Offering Persons, is not bound by any contractual, legal or fiduciary obligation of confidentiality to the Company with respect to such information or (C) was developed independently by the Offering Persons or their respective representatives without the use of, or reliance on, such information provided by the Company. In the case of a proposed disclosure pursuant to (i) or (ii) above, such Person shall be required to give the Company written notice of the proposed disclosure prior to such disclosure (except in the case of (ii) above when a proposed disclosure was or is to be made in connection with a registration statement or prospectus under this Agreement and except in the case of clause (i) above when a proposed disclosure is in connection with a routine audit or examination by, or a blanket document request from, a regulatory or self-regulatory authority, bank examiner or auditor not targeted at the Company);

(o) cooperate with the Holders and each underwriter or agent participating in the disposition of Registrable Securities and their respective counsel in connection with any filings required to be made with FINRA, including the use of reasonable best efforts to obtain FINRA's pre-clearance or pre-approval of the registration statement and applicable prospectus upon filing with the SEC;

(p) as promptly as is reasonably practicable notify the Holders (i) when the prospectus or any prospectus supplement or post-effective amendment has been filed and, with respect to such registration statement or any post-effective amendment, when the same has become effective, (ii) of any request by the SEC or other federal or state governmental authority for amendments or supplements to such registration statement or related prospectus or to amend or to supplement such prospectus or for additional information, (iii) of the issuance by the SEC of any stop order suspending the effectiveness of such registration statement or the initiation of any proceedings for such purpose, (iv) if at any time the Company has reason to believe that the representations and warranties of the Company contained in any agreement contemplated by Section 2.1(f) above relating to any applicable offering cease to be true and correct or (v) 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, or the initiation or threatening of any proceeding for such purpose; and

(q) take all other reasonable steps, at the written request of the Holders, necessary to effect the registration and offer and sale of the Registrable Securities as required hereby.

The Holders agree that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 2.1(f), 2.1(p)(ii) or 2.1(p)(iii), the Holders shall discontinue disposition of any Registrable Securities covered by such registration statement or the related prospectus until receipt of the copies of the supplemented or amended prospectus, which supplement or amendment shall, subject to the other applicable provisions of this Agreement, be prepared and furnished as soon as reasonably practicable, or until the Holders are advised in writing by the Company that the use of the applicable prospectus may be resumed, and have received copies of any amended or supplemented prospectus or any additional or supplemental filings which are incorporated, or deemed to be incorporated, by reference in such prospectus (such period during which disposition is discontinued being an "Interruption Period") and, if requested by the Company, the Holders shall use reasonable best efforts to return to the Company all copies then in their possession, of the prospectus covering such Registrable Securities at the time of receipt of such request. As soon as practicable after the Company has determined that the use of the applicable prospectus may be resumed, the Company will notify the Holders thereof. In the event the Company invokes an Interruption Period hereunder and in the sole discretion of the Company the need for the Company to continue the Interruption Period ceases for any reason, the Company shall, as soon as reasonably practicable, provide written notice to the Holders that such Interruption Period is no longer applicable.

Section 2.2 Suspension. (a) The Company shall be entitled, by providing written notice to the Holders, no more than two (2) times in any twelve (12) month period and for a period of time not to exceed 90 days in the aggregate, to (x) defer the filing or effectiveness of a registration statement to sell Registrable Securities, (y) suspend the use of any prospectus and registration statement covering any Registrable Securities and (z) require the Holders to suspend any offerings or sales of Registrable Securities pursuant to a registration statement, if the Company delivers to the Holders a certificate signed by an executive officer certifying that such registration and offering would (i) require the Company to make an Adverse Disclosure or (ii) materially interfere with any *bona fide* material financing, acquisition, disposition or other similar transaction involving the Company or any of its subsidiaries then under consideration. Such certificate shall contain a statement of the reasons for such suspension and an approximation of the anticipated length of such suspension. The Purchasers shall keep the information contained in such certificate confidential subject to the same terms set forth in Section 2.1(n). If the Company defers any registration of Registrable Securities in response to a Underwritten Shelf Take-Down Notice or requires the Holders to suspend any Underwritten Offering, the Holders shall be entitled to withdraw such Underwritten Shelf Take-Down Notice and if they do so, such request shall not be treated for any purpose as the delivery of an Underwritten Offering Notice pursuant to Section 1.6.

Section 2.3 Expenses of Registration. All Registration Expenses incurred in connection with any registration pursuant to Article I shall be borne by the Company. All Selling Expenses relating to Registrable Securities registered on behalf of the Holders shall be borne pro rata by the Holders of such Registrable Securities or in such other proportions as such Holders may agree.

Section 2.4 Cooperation by Holders. Each Holder included in any registration shall furnish to the Company such information regarding such Holder and its Affiliates, the Registrable Securities held by them, the distribution proposed by such Holder and such other relevant information, in each case, as the Company or its representatives may reasonably request to the extent required by applicable Law to be included in any registration statement referred to in this Agreement. It is understood and agreed that the obligations of the Company under Article I and this Article II are conditioned on the timely provisions of the foregoing information by such Holder and, without limitation of the foregoing, will be conditioned on compliance by such Holder with the following:

(a) such Holder will, and will use reasonable best efforts to cause its Affiliates to, cooperate with the Company in connection with the preparation of the applicable registration statement and prospectus and, for so long as the Company is obligated to keep such registration statement effective, such Holder will, and will use reasonable best efforts to cause its Affiliates to, provide to the Company, in writing and in a timely manner, for use in such registration statement, such information regarding itself and its Affiliates, the Registrable Securities held by them, the distribution proposed by such Holder and such other relevant information, in each case, as the Company or its representatives may reasonably request to the extent required by applicable Law to be included in such registration statement or any related prospectus or to maintain the currency and effectiveness thereof; and

(b) during such time as such Holder may be engaged in a distribution of the Registrable Securities, such Holder will, and will use reasonable best efforts to cause its Affiliates to, comply with all Laws applicable to such distribution, including Regulation M promulgated under the Exchange Act, and, to the extent required by such Laws, will, and will use reasonable best efforts to cause its Affiliates to, among other things (i) not engage in any stabilization activity in connection with the securities of the Company in contravention of such Laws; (ii) distribute the Registrable Securities acquired by them solely in the manner described in the applicable registration statement and (iii) if required by applicable Law, cause to be furnished to each agent or broker-dealer to or through whom such Registrable Securities may be offered, or to the offeree if an offer is made directly by such Holder, such copies of the applicable prospectus (as amended and supplemented to such date) and documents incorporated by reference therein as may be required by such agent, broker-dealer or offeree.

Section 2.5 Rule 144 Reporting. With a view to making available the benefits of Rule 144 to the Holders, the Company agrees that, for so long as a Holder owns Registrable Securities, the Company will use reasonable best efforts to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after the date of this Agreement; and

(b) so long as a Holder owns any Restricted Securities, furnish to such Holder upon written request a written statement by the Company as to its compliance with the reporting requirements of the Exchange Act.

Section 2.6 Holdback Agreement. If the Company shall file a registration statement (other than in connection with the registration of securities issuable pursuant to an employee stock option, stock purchase or similar plan or pursuant to a merger, exchange offer or a transaction of the type specified in Rule 145(a) under the Securities Act) with respect to an underwritten public offering of Common Stock or securities convertible into, or exchangeable or exercisable for, such securities or otherwise informs the Investors that it intends to conduct such an offering utilizing an effective registration statement or pursuant to an underwritten Rule 144A and/or Regulation S offering and provides each Holder the opportunity to participate in such offering in accordance with and to the extent required by Section 1.7, each Investor shall, if requested by the managing underwriter or underwriters, enter into a customary "lock-up" agreement relating to the sale, offering or distribution of Registrable Securities, in the form reasonably requested by the managing underwriter or underwriters and containing customary exceptions, covering the period commencing on the date of the prospectus pursuant to which such offering may be made and continuing until 90 days (or such shorter period as may be applicable to the Company or as may be mutually agreed by the Holders and the managing underwriter or underwriters) from the date of such prospectus.

ARTICLE III

Indemnification

Section 3.1 Indemnification by Company. To the extent permitted by applicable Law, the Company will, with respect to any Registrable Securities covered by a registration statement or prospectus, or as to which registration, qualification or compliance under applicable "blue sky" Laws has been effected pursuant to this Agreement, indemnify and hold harmless each Holder, each Holder's current and former officers, directors, partners, members, managers, shareholders, accountants, attorneys, agents, employees and Affiliates, each of its representatives, each Person controlling such Holder within the meaning of Section 15 of the Securities Act and each underwriter (collectively, the "Company Indemnified Parties"), from and against any and all expenses, claims, losses, damages, costs (including reasonable attorney's fees and expenses and any legal or other fees or expenses actually incurred by such party in connection with any investigation or proceeding), judgments, fines, penalties, charges, amounts paid in settlement and other liabilities, joint or several, (or actions or proceedings, whether commenced or threatened, in respect thereof) (collectively, "Losses") to the extent arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, preliminary prospectus, offering circular, "issuer free writing prospectus" (as such term is defined in Rule 433 under the Securities Act) or other document, in each case related to such registration statement, or any amendment or supplement thereto, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, or any violation by the Company of the Securities Act, the Exchange Act, any state securities Law or any rules or regulations thereunder applicable to the Company and (without limiting the preceding portions of this Section 3.1), the Company will reimburse each of the Company Indemnified Parties for any reasonable and documented out-of-pocket legal expenses and any other reasonable and documented out-of-pocket expenses actually incurred in connection with investigating, defending or, subject to the last sentence of this Section 3.1, settling any such Losses or action, as such expenses are incurred; provided that the Company's indemnification obligations shall not apply to amounts paid in settlement of any Losses or action if such settlement is effected without the prior written consent of the Company (which consent shall not be unreasonably withheld or delayed), nor shall the Company be liable to a Holder in any such case for any such Losses or action to the extent that it arises out of or is based upon a violation or alleged violation of any state or federal Law (including any claim arising out of or based on any untrue statement or alleged untrue statement or omission or alleged omission in the registration statement or prospectus) which occurs in reliance upon and in conformity with written information regarding such Holder furnished to the Company by such Holder or its authorized representatives expressly for use in connection with such registration by or on behalf of any Holder, it being understood and agreed that the only such information furnished by or on behalf of any Holder consists of the information described as such in Section 3.2 below.

Section 3.2 Indemnification by Holders. To the extent permitted by applicable Law, each Holder will, if Registrable Securities held by such Holder are included in the securities as to which registration or qualification or compliance under applicable "blue sky" Laws is being effected, indemnify, severally and not jointly with any other Holders, the Company, the Company's current and former officers, directors, partners, members, managers, shareholders, accountants, attorneys, agents, employees and Affiliates, each of its representatives and each Person who controls the Company within the meaning of Section 15 of the Securities Act and each underwriter (collectively, the "Holder Indemnified Parties"), against all Losses (or actions in respect thereof) to the extent arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus, preliminary prospectus, offering circular, "issuer free writing prospectus" or other document, in each case related to such registration statement, or any amendment or supplement thereto, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, and will reimburse each of the Holder Indemnified Parties for any reasonable and documented out-of-pocket legal expenses and any other reasonable and documented out-of-pocket expenses actually incurred in connection with investigating, defending or, subject to the last sentence of this Section 3.2, settling any such Losses or action, as such expenses are incurred, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such registration statement, prospectus, offering circular, "issuer free writing prospectus" or other document in reliance upon and in conformity with written information regarding such Holder furnished to the Company by such Holder or its authorized representatives and stated to be specifically for use therein; it being understood and agreed that the only such information furnished by or on behalf of any Holder consists of the number of shares of Common Stock (or any securities convertible, exchangeable or exercisable for Common Stock within 60 days of any such filing) owned by such Holder, the number of Registrable Securities proposed to be sold by such Holder, the name and address of such Holder proposing to sell and the distribution proposed by such Holder; provided that in no event shall any indemnity under this Section 3.2 payable by any Holder exceed an amount equal to the net proceeds received by such Holder in respect of the sale of the Registrable Securities giving rise to such indemnification obligation. The indemnity agreement contained in this Section 3.2 shall not apply to amounts paid in settlement of any Losses or action if such settlement is effected without the prior written consent of the applicable Holder (which consent shall not be unreasonably withheld or delayed).

Section 3.3 Notification. If any Person shall be entitled to indemnification under this Article III (each, an "Indemnified Party"), such Indemnified Party shall give prompt notice to the party required to provide indemnification (each, an "Indemnifying Party") of any claim or of the commencement of any proceeding as to which indemnity is sought. The Indemnifying Party shall have the right, exercisable by giving written notice to the Indemnified Party as promptly as reasonably practicable after the receipt of written notice from such Indemnified Party of such claim or proceeding, to assume, at the Indemnifying Party's expense, the defense of any such claim or litigation, with counsel reasonably satisfactory to the Indemnified Party and, after notice from the Indemnifying Party to such Indemnified Party of its election to assume the defense thereof, the Indemnifying Party will not (so long as it shall continue to have the right to defend, contest, litigate and settle the matter in question in accordance with this paragraph) be liable to such Indemnified Party hereunder for any legal expenses and other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof; provided, however, that an Indemnified Party shall have the right to employ separate counsel in any such claim or litigation, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (i) the use of counsel chosen by the Indemnifying Party to represent the Indemnified Party would present such counsel with a conflict of interest, (ii) such action includes both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Indemnifying Party, (iii) the Indemnifying Party shall have failed within a reasonable period of time to assume such defense with counsel reasonably satisfactory to the Indemnified Party or (iv) the Indemnifying Party agrees to pay such fees and expenses. The failure of any Indemnified Party to give notice as provided herein shall relieve an Indemnifying Party of its obligations under this Article III only to the extent that the failure to give such notice is materially prejudicial or harmful to such Indemnifying Party's ability to defend such action. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the prior written consent of each Indemnified Party (which consent shall not be unreasonably withheld or delayed), consent to entry of any judgment or enter into any settlement which (A) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation and (B) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party. The indemnity agreements contained in this Article III shall not apply to amounts paid in settlement of any claim, loss, damage, liability or action if such settlement is effected without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. The indemnification set forth in this Article III shall be in addition to any other indemnification rights or agreements that an Indemnified Party may have. An Indemnifying Party who is not entitled to, or elects not to, assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel (in addition to appropriate local counsel) for all parties indemnified by such Indemnifying Party with respect to such claim, unless in the reasonable judgment of any Indemnified Party a conflict of interest may exist between such Indemnified Party and any other Indemnified Parties with respect to such claim.

Section 3.4 Contribution. If the indemnification provided for in this Article III is held by a court of competent jurisdiction to be unavailable to an Indemnified Party, other than pursuant to its terms, with respect to any Losses or action referred to therein, then, subject to the limitations contained in this Article III, the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Losses or action in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and the Indemnified Party, on the other, in connection with the actions, statements or omissions that resulted in such Losses or action, as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party, on the one hand, and the Indemnified Party, on the other hand, shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been made (or omitted) by, or relates to information supplied by such Indemnifying Party, on the one hand, or such Indemnified Party, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent any such action, statement or omission. The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 3.4 was determined solely upon *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding sentence of this Section 3.4. Notwithstanding the provisions of this Section 3.4, an Indemnifying Party that is a Holder shall not be required to contribute to any amount in excess of the amount by which the net proceeds to the Indemnifying Party from the sale of the Registrable Securities sold in a transaction that resulted in Losses in respect of which contribution is sought in such proceeding pursuant to this Section 3.4 exceed the amount of any damages such Indemnifying Party has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission (including as a result of any indemnification obligation hereunder). No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

ARTICLE IV

Transfer and Termination of Registration Rights

Section 4.1 Transfer of Registration Rights. Any rights to cause the Company to register securities granted to a Holder under this Agreement may be transferred or assigned in connection with a Transfer (as defined in the Investment Agreement) of any Warrant or Registrable Securities to such Person in compliance with Section 5.07 of the Investment Agreement; provided, however, that (i) prior written notice of such assignment of rights is given to the Company and (ii) such Person agrees in writing to be bound by, and subject to, this Agreement as an "Investor" pursuant to a written instrument in form and substance reasonably acceptable to the Company.

Section 4.2 Termination of Registration Rights. The rights of any particular Holder to cause the Company to register securities under Article I shall terminate with respect to such Holder upon the date upon which such Holder no longer holds any Registrable Securities.

ARTICLE V

Miscellaneous

Section 5.1 Amendments and Waivers. Subject to compliance with applicable Law, this Agreement may be amended or supplemented in any and all respects by written agreement of the Company and the Investors.

Section 5.2 Extension of Time, Waiver, Etc. The parties hereto may, subject to applicable Law, (a) extend the time for the performance of any of the obligations or acts of the other party or (b) waive compliance by the other party with any of the agreements contained herein applicable to such party or, except as otherwise provided herein, waive any of such party's conditions. Notwithstanding the foregoing, no failure or delay by the parties hereto in exercising any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 5.3 Assignment. Except as provided in Section 4.1, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise, by any of the parties hereto without the prior written consent of the other parties hereto.

Section 5.4 Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts (including by electronic means), each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto. In the event that any signature is delivered 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 ".pdf" signature were the original thereof.

Section 5.5 Entire Agreement; No Third Party Beneficiary. This Agreement together with the other Investment Documents (as defined in the Investment Agreement) constitute the entire agreement, and supersedes all other prior agreements and understandings, both written and oral, among the parties and their Affiliates, or any of them, with respect to the subject matter hereof and thereof. No provision of this Agreement shall confer upon any Person other than the parties hereto, their permitted assigns, the Company Indemnified Parties and the Investor Indemnified Parties any rights or remedies hereunder.

Section 5.6 Governing Law; Jurisdiction.

(a) This Agreement, and all legal or administrative proceedings, suits, investigations, arbitrations or actions ("Actions") that may be based upon, arising out of or relating to this Agreement or any of the transactions contemplated hereby or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or relating to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by and construed in accordance with the internal laws of the State of New York, including its statute of limitations, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws.

(b) Each of the parties hereto irrevocably and unconditionally, with respect to any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) agrees to submit to the exclusive jurisdiction of the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, and appellate courts thereof, (b) agrees that it will not attempt to deny or defeat such jurisdiction by motion or other request for leave from such court, (c) waives any objection to the laying of venue in such court, (d) waives and agrees not to plead or claim in any such court that such Action brought in any such court has been brought in an inconvenient forum and (e) agrees that it will not bring any such Action in any court other than the Supreme Court of the State of New York, New York County, and the United States District Court for the Southern District of New York, or, if (and only if) such court finds it lacks subject matter jurisdiction, the federal court of the United States of America sitting in New York, and appellate courts thereof, or, if (and only if) each such court for the State of New York and such federal court finds it lacks subject matter jurisdiction, any state court within the State of New York. Each of the parties hereto further agrees that, to the fullest extent permitted by applicable Law, service of any process, summons, notice or document to any party's address and in the manner set forth in Section 5.8 shall be effective service of process for any such Action.

Section 5.7 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 5.7.

Section 5.8 Notices. All notices, requests and other communications to any party hereunder shall be in writing and shall be deemed given if delivered personally, by email (except in the event of any "bounceback" or similar non-transmittal message) or sent by overnight courier to the parties at the following addresses:

(a) If to the Company, to it at:

PENN Entertainment, Inc.
825 Berkshire Blvd., Suite 200
Wyomissing, Pennsylvania 19610
Attn: Chief Strategy Officer
Email: chris.rogers@pennentertainment.com

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Zachary S. Podolsky
Email: ZSPodolsky@wlrk.com

(b) If to the Purchaser at:

ESPN, Inc.
ESPN Plaza
935 Middle Street
Bristol, CT 06010
Attn: Bryan Castellani; Eleanor S. DeVane
Email: Bryan.Castellani@espn.com; Eleanor.S.DeVane@espn.com

with a copy (which shall not constitute notice) to:

The Walt Disney Company
500 South Buena Vista Street
Burbank, California 91521-1245
Attn: James Kapenstein
Email: James.Kapenstein@disney.com

and a copy (which shall not constitute notice) to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
Attn: Daniel Cerqueira
George Schoen
Email: DCerqueira@cravath.com
GSchoen@cravath.com

or such other address or email address as such party may hereafter specify by like notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of delivery.

Section 5.9 Severability. If any term, condition or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term, condition or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law.

Section 5.10 Expenses. Except as provided in Section 2.3 and Article III, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 5.11 Interpretation. The rules of interpretation set forth in Section 6.13 of the Investment Agreement shall apply to this Agreement, *mutatis mutandis*.

[*Signature pages follow*]

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

PENN ENTERTAINMENT, INC.

By: /s/ Christopher Rogers
Name: Christopher Rogers
Title: Executive Vice President, Chief Strategy Officer

ESPN, INC.

By: /s/ Michael T. Morrison
Name: Michael T. Morrison
Title: Vice President, Sports Betting & Fantasy

[*Signature Page to Registration Rights Agreement*]

EXHIBIT A

DEFINED TERMS

1. The following capitalized terms have the meanings indicated:

"Adverse Disclosure" means public disclosure of material non-public information that, in the good faith judgment of the Company (after consultation with legal counsel): (i) would be required to be made in any registration statement filed with the SEC by the Company so that such registration statement would not be materially misleading; (ii) would not be required to be made at such time but for the filing, effectiveness or continued use of such registration statement; and (iii) the Company has a *bona fide* business purpose for not disclosing publicly.

"Affiliates" shall have the meaning given to such term in the Investment Agreement.

"Business Day" shall have the meaning given to such term in the Investment Agreement.

"Common Stock" means all shares currently or hereafter existing of the Company's common stock, par value $0.01 per share.

"Exchangeable Shares" means the shares in the capital of 1317774 B.C. Ltd., a British Columbia corporation that were issued prior to the date of this Agreement in accordance with the TheScore Arrangement Agreement and are exchangeable for shares of Common Stock.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and any successor statute thereto, and the rules and regulations of the SEC promulgated thereunder.

"FINRA" means the Financial Industry Regulatory Authority, Inc.

"Form S-3" means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

"Holder" means any Investor holding Registrable Securities.

"Law" shall have the meaning given to such term in the Investment Agreement.

"Marketed Underwritten Offering" means any Underwritten Offering that includes a customary "electronic road show" or other marketing efforts by the Company and the underwriters, which for the avoidance of doubt, shall not include block trades.

"Mixed Cash/Stock Settlement" has the meaning ascribed to such term in the Warrant.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or any other entity, including a governmental authority.

"register", "registered" and "registration" refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement or the automatic effectiveness of such registration statement, as applicable.

"Registrable Securities" means, as of any date of determination, any shares of Common Stock held by any Investor and issued upon exercise of any Warrant, and any other securities issued with respect to any such shares of Common Stock by way of share split, share dividend, distribution, recapitalization, merger, exchange, replacement or similar event; provided that as to any particular Registrable Securities, once issued, such securities shall cease to be Registrable Securities when (i) such securities are sold or otherwise transferred pursuant to an effective registration statement under the Securities Act, (ii) such securities shall have ceased to be outstanding, (iii) such securities have been transferred in a transaction in which the Holder's rights under this Agreement are not assigned in accordance with the terms of this Agreement to the transferee of the securities, (iv) such securities are sold in a broker's transaction under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in force) are met, (v) such securities are freely saleable under Rule 144 without limitations, or (vi) the stock certificates or evidences of book-entry registration, as applicable, relating to such securities have had all restrictive legends removed in accordance with Section 2(f)(iii) of such Warrant.

"Registration Expenses" means all (a) expenses incurred by the Company in complying with Article I, including all registration, qualification, listing and filing fees, printing expenses, escrow fees, and fees and disbursements of counsel for the Company, fees and disbursements of the Company's independent public accountants, fees and disbursements of the transfer agent, blue sky fees and expenses; and (b) reasonable, documented out-of-pocket fees and expenses of one outside legal counsel for all Holders retained in connection with any registration contemplated hereby.

"Restricted Securities" means any Common Stock required to bear the legend set forth in Section 5.08(a) of the Investment Agreement.

"Rule 144" means Rule 144 promulgated under the Securities Act and any successor provision.

"Rule 462(e)" means Rule 462(e) promulgated under the Securities Act and any successor provision.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and any successor statute thereto, and the rules and regulations of the SEC promulgated thereunder.

"Selling Expenses" means all underwriting discounts, selling commissions and stock transfer taxes applicable to the securities registered by the Holders, and the fees and expenses of any auditor of any Holder and any counsel to any Holder (other than such fees and expenses included in Registration Expenses in accordance with the express terms of the definition thereof).

"Shelf Registration Statement" means the Resale Shelf Registration Statement or a Subsequent Shelf Registration Statement, as applicable.

"TheScore Arrangement Agreement" means the Arrangement Agreement, dated as of August 4, 2021, as amended by Amendment No. 1, dated as of September 10, 2021, by and between Score Media and Gaming Inc., 1317774 B.C. Ltd. and the Company.

"Total Cash Settlement" has the meaning ascribed to such term in the Warrant.

"Underwritten Offering" means a registered offering in which securities of the Company are sold to one or more underwriters on a firm-commitment basis for reoffering to the public.

Exhibit 99.1

PENN Entertainment and ESPN Enter into Long-Term Exclusive Strategic Alliance for U.S. Online Sports Betting

WYOMISSING, PA (August 8, 2023) - PENN Entertainment, Inc. ("PENN" or the "Company") (Nasdaq: PENN) today announced that it has entered into a transformative, exclusive U.S. online sports betting ("OSB") agreement with ESPN, Inc. and ESPN Enterprises, Inc (together, "ESPN"). PENN will discuss the ESPN transaction as well as its second quarter 2023 results on its previously scheduled conference call and webcast tomorrow morning at 9:00 a.m. ET. For further information, the Company has posted a presentation to its website regarding the transaction, which can be found here.

ESPN Transaction Highlights:

- ***Exclusive Right to the #1 U.S. Sports Brand:*** PENN has secured the exclusive right to the ESPN Bet trademark for OSB in the U.S. for an initial 10-year term which may be extended for an additional 10 years upon mutual agreement
- ***Launch of ESPN Bet:*** The online Barstool Sportsbook will be rebranded ESPN Bet in the Fall of 2023; theScore Bet will continue to operate in Canada
- ***Deep Integration:*** ESPN Bet, operated by PENN Interactive, will benefit from exclusive promotional services across ESPN platforms including programming, content, and access to ESPN talent
- ***ESPN Becomes a Highly Aligned, Long-Term Strategic Partner:*** Agreement enables efficient customer acquisition and retention spend across premier sports content
    - Mutually beneficial relationship through ongoing collaboration and warrants
        - PENN has agreed to make $1.5 billion in cash payments to ESPN paid over the initial ten-year term and grant ESPN approximately $500[1] million of warrants to purchase approximately 31.8 million PENN common shares that will vest ratably over 10 years, in exchange for media, marketing services, brand and other rights provided by ESPN
        - Upon ESPN Bet meeting certain U.S. OSB market share performance thresholds, ESPN could receive bonus warrants to purchase up to an additional approximately 6.4 million PENN common shares

[1] Calculation is based on inputs agreed upon and contained within the investment agreement which may be different from the Company's valuation in accordance with ASC 718 "Compensation—Stock Compensation."

- ESPN will have the option, at its discretion, to designate one non-voting Board observer or, upon completion of year 3 of the agreement, designate a Board member subject to satisfying gaming regulatory approval(s) and a minimum ownership threshold

- ***Significant Value Creation Potential****:* Provides an estimated $500 million to $1.0 billion+ of annual long-term Adjusted EBITDA potential in our Interactive segment

- ***Rebranded iCasino Product:*** Powered by our new promotional engine, our new app will include a separate Hollywood-branded iCasino product in those states where permitted

Barstool Divestiture

- ***PENN Divests Barstool Sports to Founder David Portnoy:*** PENN sold 100% of the Barstool Sports, Inc. ("Barstool") common stock to David Portnoy in exchange for certain non-compete and other restrictive covenants. PENN also has the right to receive 50% of the gross proceeds received by David Portnoy in any subsequent sale or other monetization event of Barstool

Jay Snowden, Chief Executive Officer and President of PENN, commented, "This transformative, exclusive agreement with ESPN marks another major milestone in PENN's evolution from a pure-play U.S. regional gaming operator to a North American entertainment leader. ESPN Bet will be deeply integrated with ESPN's broad editorial, content, digital and linear product, and sports programming ecosystem. ESPN Bet will also benefit from PENN's operational experience, extensive market access and proprietary technology platform, which successfully debuted in the U.S. this July."

Jimmy Pitaro, Chairman of ESPN, said, "After meeting with Jay and the PENN team, it was clear that they were the right long-term strategic partner to build ESPN Bet into a leading U.S. sports betting platform. We are confident that the combination of our unparalleled audience along with PENN's operational expertise and state-of-the-art technology provides us with a tremendous opportunity to serve the ever-growing number of consumers interested in betting."

Mr. Snowden continued, "In connection with the transaction, we are selling Barstool back to founder David Portnoy. Barstool has been a great partner and we are thankful to Dave Portnoy, Erika Ayers, Dan Katz and their team for helping to rapidly scale our digital footprint across 16 jurisdictions in the U.S. and introducing their audience to our retail and digital products. The divestiture allows Barstool to return to its roots of providing unique and authentic content to its loyal audience without the restrictions associated with a publicly traded, licensed gaming company."

"Our agreement with ESPN will provide us access to the largest ecosystem in sports, with 105 million+ monthly unique digital visitors, an audience of more than 370 million across social platforms, 25 million ESPN+ subscribers, and the nation's #1 fantasy database. PENN's ability to leverage the leading sports media brands in both the U.S. and Canada with ESPN and theScore, combined with our newly launched sports betting app, will allow us to significantly expand our digital footprint and catapult ESPN Bet into a strong podium position in this space. We believe we can achieve substantial adjusted EBITDA in our Interactive Segment over the coming years – and this will translate to very strong free cash flow generation for the Company and value creation for our shareholders," concluded Mr. Snowden.

Non-GAAP Financial Measures

The Non-GAAP Financial Measures used in this press release include Adjusted EBITDA. This non-GAAP financial measure should not be considered a substitute for, nor superior to, financial results and measures determined or calculated in accordance with GAAP.

We define Adjusted EBITDA as earnings before interest expense, net; interest income; income taxes; depreciation and amortization; stock-based compensation; debt extinguishment charges; impairment losses; insurance recoveries, net of deductible charges; changes in the estimated fair value of our contingent purchase price obligations; gain or loss on disposal of assets; the difference between budget and actual expense for cash-settled stock-based awards; pre-opening expenses; non-cash gains/losses associated with REIT transactions; non-cash gains/losses associated with partial and step acquisitions as measured in accordance with ASC 805 “Business Combinations”; and other. Adjusted EBITDA is inclusive of income or loss from unconsolidated affiliates, with our share of non-operating items (such as interest expense, net; income taxes; depreciation and amortization; and stock-based compensation expense) added back for Barstool (prior to our acquisition of Barstool on February 17, 2023) and our Kansas Entertainment, LLC joint venture. Adjusted EBITDA is inclusive of rent expense associated with our triple net operating leases with our REIT landlords. Although Adjusted EBITDA includes rent expense associated with our triple net operating leases, we believe Adjusted EBITDA is useful as a supplemental measure in evaluating the performance of our consolidated results of operations.

Adjusted EBITDA has economic substance because it is used by management as a performance measure to analyze the performance of our business, and is especially relevant in evaluating large, long-lived casino-hotel projects because it provides a perspective on the current effects of operating decisions separated from the substantial non-operational depreciation charges and financing costs of such projects. We present Adjusted EBITDA because it is used by some investors and creditors as an indicator of the strength and performance of ongoing business operations, including our ability to service debt, and to fund capital expenditures, acquisitions and operations. These calculations are commonly used as a basis for investors, analysts and credit rating agencies to evaluate and compare operating performance and value companies within our industry. In order to view the operations of their casinos on a more stand-alone basis, gaming companies, including us, have historically excluded from their Adjusted EBITDA calculations certain corporate expenses that do not relate to the management of specific casino properties. However, Adjusted EBITDA is not a measure of performance or liquidity calculated in accordance with GAAP. Adjusted EBITDA information is presented as a supplemental disclosure, as management believes that it is a commonly used measure of performance in the gaming industry and that it is considered by many to be a key indicator of the Company’s operating results.

Adjusted EBITDA is not calculated in the same manner by all companies and, accordingly, may not be an appropriate measure of comparing performance among different companies.

The Company does not provide a reconciliation of projected Adjusted EBITDA because it is unable to predict with reasonable accuracy the value of certain adjustments that may significantly impact the Company’s results, including realized and unrealized gains and losses on equity securities, re-measurement of cash-settled stock-based awards, contingent purchase payments associated with prior acquisitions, and income tax (benefit) expense, which are dependent on future events that are out of the Company’s control or that may not be reasonably predicted.

Management Presentation, Conference Call, Webcast and Replay Details

PENN is hosting a conference call and simultaneous webcast at 9:00 am ET tomorrow, both of which are open to the general public. During the call, management will review a presentation regarding the transaction with ESPN that can be accessed at https://investors.pennentertainment.com/events-and-presentations/presentations.

The conference call number is 212-231-2913; please call five minutes in advance to ensure that you are connected prior to the presentation. Interested parties may also access the live call at *www.pennentertainment.com*; allow 15 minutes to register and download and install any necessary software. Questions and answers will be reserved for call-in analysts and investors. A replay of the call can be accessed for thirty days at *www.pennentertainment.com*.

This press release is available on the Company's web site, *www.pennentertainment.com*, in the "Investors" section (select link for "Press Releases").

About PENN Entertainment

PENN Entertainment, Inc., together with its subsidiaries ("PENN," the "Company," "we," "our," or "us"), is North America's leading provider of integrated entertainment, sports content, and casino gaming experiences. As of June 30, 2023, PENN operated 43 properties in 20 states, online sports betting in 17 jurisdictions and iCasino in five jurisdictions, under a portfolio of well-recognized brands including Hollywood Casino®, L'Auberge®, Barstool Sportsbook® and theScore Bet Sportsbook and Casino®. In August 2023, PENN entered into a transformative, exclusive long-term strategic alliance with ESPN, Inc. and ESPN Enterprises, Inc. (together, "ESPN") relating to online sports betting within the United States. In the fall of 2023, the existing Barstool Sportsbook will be rebranded across all online platforms in the United States as ESPN Bet, and our online product will include a Hollywood-branded integrated iCasino where permitted. PENN's ability to leverage the leading sports media brands in the United States (ESPN) and Canada (theScore) will position us to significantly expand our digital footprint and efficiently grow our customer ecosystem. This highly differentiated strategy, which is focused on organic cross-sell opportunities, is reinforced by our investment in market-leading retail casinos, sports media assets and technology, including a proprietary state-of-the-art, fully integrated digital sports and iCasino betting platform and an in-house iCasino content studio. PENN's portfolio is further bolstered by our industry-leading PENN Play™customer loyalty program, which offers our approximately 27 million members a unique set of rewards and experiences across business channels.

About ESPN

ESPN, Inc. is the leading multinational, multimedia sports entertainment company featuring the broadest portfolio of multimedia sports assets with over 50 business entities. Reaching fans across television, digital media, audio, print and more, it has unparalleled scope, scale, consumption and brand strength. Based in Bristol, CT., the company is 80 percent owned by ABC, Inc., an indirect subsidiary of The Walt Disney Company. The Hearst Corporation holds a 20 percent interest in ESPN.

Forward Looking Statements

This press release contains “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. These statements can be identified by the use of forward-looking terminology such as “expects,” “believes,” “estimates,” “projects,” “intends,” “plans,” “goal,” “seeks,” “may,” “will,” “should,” or “anticipates” or the negative or other variations of these or similar words, or by discussions of future events, strategies or risks and uncertainties. Specifically, forward-looking statements include, but are not limited to, statements regarding: future Adjusted EBITDA; the inclusion of a Hollywood-branded integrated iCasino product in the ESPN Bet Sportsbook; the integration of the ESPN Bet Sportsbook into the ESPN ecosystem; the benefits of the Sportsbook Agreement between the Company and ESPN; the benefit to ESPN Bet of the Company’s experience, market access and technology platform; the expansion of the Company’s digital footprint and growth of its customer ecosystem; the Company’s expectations of future results of operations and financial condition, the assumptions provided regarding the guidance, including the scale and timing of the Company’s product and technology investments; the Company’s expectations regarding results, and the impact of competition, in retail/mobile/online sportsbooks, iCasino, social gaming, and retail operations; the Company’s development and launch of its Interactive segment’s products in new jurisdictions and enhancements to existing Interactive segment products, including the content for the ESPN Bet and theScore Bet Sportsbook and Casino apps and the expected timing of the rebrand of the Barstool Sportsbook as ESPN Bet on our proprietary player account management system and risk and trading platforms; the Company’s expectations regarding its Sportsbook Agreement with ESPN and the future success of its products; and the Company’s expectations with respect to the integration and synergies related to the Company’s integration of theScore and the continued growth and monetization of the Company’s media business.

Such statements are all subject to risks, uncertainties and changes in circumstances that could significantly affect the Company’s future financial results and business. Accordingly, the Company cautions that the forward-looking statements contained herein are qualified by important factors that could cause actual results to differ materially from those reflected by such statements. Such factors include: the effects of economic and market conditions in the markets in which the Company operates; competition with other entertainment, sports content, and casino gaming experiences; the timing, cost and expected impact of product and technology investments; risks relating to international operations, permits, licenses, financings, approvals and other contingencies in connection with growth in new or existing jurisdictions; the Company may not be able to achieve the anticipated financial returns from the Sportsbook Agreement with ESPN, including due to fees, costs, taxes or circumstances beyond the Company’s or ESPN’s control; the rebranding of the Barstool Sportsbook as ESPN Bet or the inclusion of Hollywood-branded iCasino products may be delayed, or in certain jurisdictions may not occur at all, for reasons beyond our control, including due to any delays in the receipt of, or failure to receive, any required regulatory approvals; the ability to successfully integrate ESPN Bet, theScore and PENN’s iCasino products and the costs and fees associated with such integrations; potential adverse reactions or changes to business or regulatory relationships resulting from the announcement or performance of the Sportsbook Agreement with ESPN or the divestiture of Barstool Sports; the occurrence of any event, change or other circumstances that could give rise to the right of one or both of the Company and ESPN to terminate the Sportsbook Agreement between the companies; liabilities, costs and fees in connection with the divestiture of Barstool Sports and the transition from the Barstool Sportsbook and other uses of intellectual property of Barstool Sports, including in the Company’s retail locations; the ability of the Company and ESPN to agree to extend the initial 10-year term of the Sportsbook Agreement on mutually satisfactory terms, if at all, and the costs and obligations of such terms if agreed; the acceleration of the vesting of the warrants issued to ESPN in certain circumstances; the outcome of any legal proceedings that may be instituted against the Company, ESPN or their respective directors, officers or employees; the ability of the Company to retain and hire key personnel; the impact of new or changes in current laws, regulations, rules or other industry standards; and additional risks and uncertainties described in the Company’s Annual Report on Form 10-K for the year ended December 31, 2022, subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, each as filed with the U.S. Securities and Exchange Commission. The Company does not intend to update publicly any forward-looking statements except as required by law. Considering these risks, uncertainties and assumptions, the forward-looking events discussed in this press release may not occur.

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JCIR
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PENN
ENTERTAINMENT
ESPN
STRATEGIC ALLIANCE
August 8, 2023

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NON-GAAP FINANCIAL MEASURES

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ESPN BET: THE FUTURE OF SPORTS MEDIA & BETTING

Synergistic Relationship

Combination of leading gaming operator and #1 U.S. sports media platform

Exclusive & Integrated

Efficient customer acquisition through exclusive ESPN access & deep integrations

Best-In-Class Tech Stack

Cutting-edge proprietary tech provides first rate product offering & user experience

Compelling Value Creation

$500 million to $1 billion+ Interactive Adjusted EBITDA potential with retail cross-sell upside

Highly Aligned

ESPN Bet's success is mutually beneficial through warrants and ongoing collaboration

HIGHLY SYNERGISTIC RELATIONSHIP

PENN ENTERTAINMENT

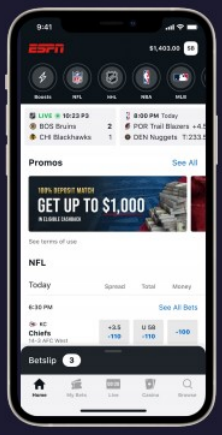
Leading Gaming Platform

1. Cutting-Edge Proprietary Tech
2. Best-in-Class Operators
3. Robust Market Access
4. 27 Million Customer Database
5. Omni-Channel Cross-Sell

ESPN

Leading Sports Media & Content Platform

1. #1 Sports Brand in the U.S.
2. Marquee Sports Programming
3. Unrivaled Reach
4. Extensive User Base
5. Engaging Personalities



- Operational Expertise
- Best-in-Class Product
- Leading Brand

Note: App design is illustrative.

EXCLUSIVE ACCESS TO THE #1 SPORTS MEDIA BRAND

ESPN

Premier Rights Portfolio

- NFL
- NBA
- WNBA
- MLB
- NHL
- NCAA
- College Football Playoffs
- UFC
- PGA
- The Masters
- US Open Tennis
- Wimbledon
- Formula One

Unrivaled Reach

370mm+
Social Media Followers

100mm+
Monthly Digital Uniques

25mm+
ESPN+ Subscribers

11mm
Fantasy App Uniques

Marquee Program Personalities

Source: Public filings. Note: All stats are for calendar year 2022. (1) Includes Instagram, TikTok, Twitter and Facebook.

BEST-IN-CLASS USER EXPERIENCE

CLEAR PATH TO ONLINE SPORTS BETTING PODIUM

PENN ENTERTAINMENT

X

ESPN

Structured to execute on built-in advantages to achieve podium position in highly compelling Online Gaming business

Brand Affinity

- Strongest sports brand in the U.S., supported by decades of brand affinity

Customer Reach / Fantasy Database

- Unparalleled reach, including the largest U.S. fantasy database and casino database of 27 million

Tech / Product

- Best-in-class technology stack, custom-built for the North American market

Media Integrations

- Integrated media provides opportunities for highly efficient customer acquisition and organic calls to acti

Source: Internal information.

SIGNIFICANT VALUE CREATION OPPORTUNITY

Interactive Annual Adjusted EBITDA Potential (1)

Illustrative North America Market Shares

OSB	10%	15%	20%
iCasino	8%	12%	16%

Retail Enhancement Opportunity

Database	Database growth will drive property visitation and cross-play opportunities
Brand Awareness	Cross-sell to Hollywood-branded iCasino will increase retail portfolio connectivity
Loyalty	PENN Play database will improve retention and consolidated play

(1) Assumes blended EBITDA margin (% of Gross Gaming Revenue) of 16%, 17%, 18% on 10%, 15%, 20% Online Sports Betting market share cases, respectively. Figures are rounded to the nearest $100 million. Includes other Interactive segments, including retail sportsbooks, skins, media and social / ADW. (2) Includes all legal states per 2027 Eilers & Krejcik projections and Ontario province per internal estimates.

TRANSACTION STRUCTURE & KEY TERMS

Transaction

- Exclusive transformational agreement between PENN and ESPN
- PENN to rebrand the existing Barstool Sportsbook as "ESPN BET" across all online platforms in the U.S.
- PENN to leverage ESPN, the #1 sports media brand, for efficient customer acquisition and retention
- 10-year agreement that can be extended for an additional 10 years upon mutual agreement (1)

Commercial Agreement

PENN ENTERTAINMENT

- Exclusive right to use the "ESPN BET" trademark in the U.S. across all OSB digital channels
- Deep media and betting integrations throughout ESPN's multi-platform sports ecosystem
- Comprehensive suite of ESPN sponsorship and media assets across top tier live programming, studio content and digital platforms
- Access to top ESPN talent and personalities

ESPN

- Receives $1.5 billion in cash over the initial 10-year term for media marketing services and brand and other rights
- Promotes ESPN Bet via odds attribution, editorial integrations, digital product integrations, access to talent, traditional media and content integrations / sponsorships

Governance / Equity Incentives

PENN ENTERTAINMENT

- Oversees the daily operations of the sportsbook
- Retains all customer data and relationships

ESPN

- Receives approximately $500 million in warrants up front (2) and additional performance warrants upon achieving various U.S. OSB mark share levels as additional consideration for media marketing services and brand and other rights provided
- Receives the option to designate an observer to attend Board discussions relating to PENN Interactive, or following year 3 of the agreem a Board member, in each case subject to ESPN's discretion, gaming regulatory requirements and a minimum ownership threshold

(1) At the end of year 3, both parties have the right to terminate the agreement if U.S. OSB market share is below a certain threshold. Agreement includes certain other termination rights. If terminated, all unvested upfront warrants would be forfeited by ESPN, subject to certain exceptions. (2) Calculation is based on inputs agreed upon and contained within the transaction agreements, which may be different from the Company's valuation in accordance with ASC 718 "Compensation—Stock Compensation."

HIGHLY ALIGNED INCENTIVES

PENN ENTERTAINMENT x ESPN

- **ESPN's option to appoint a Board observer or potential Board member promotes ongoing collaboration**
- **Long-term focused warrant structure**
  - Granted immediately
  - Vest ratably over 10 years
  - Additional warrants contingent on meeting certain OSB market share levels
  - Unvested warrants are forfeited if the commercial agreement is terminated other than for certain PENN breaches

General Warrants

Tranche [1]	Shares (mm) [2]	Strike Price [3]
Tranche A	~12.7	$26.08
Tranche B	~12.8	$29.99
Tranche C	~6.3	$32.60

Performance Warrants

Tranche [4]	Shares (mm)	Strike Price [5]
≥ 20% Mkt. Share [6]	~1.9	$28.95
≥ 22.5% Mkt. Share [6]	~1.9	$28.95
≥ 25% Mkt. Share [6]	~2.5	$28.95

Achieving Thresholds for Performance Warrants Would Imply Adjusted EBITDA Potential of up to ~$1.5bn

(1) Tranche A, B and C have exercise periods of 9.5, 10.5 and 11.5 years, respectively. All remaining Tranche A warrants vest 9 years after grant. (2) Number of warrant shares determined using Black-Scholes option pricing model with a volatility assumption of 45%. (3) Based on PENN 20-day trailing VWAP as of August 4, 2023, +15% premium to 20-day trailing VWAP, +25% premium to 20-day trailing VWAP for Tranche B and C, respectively. (4) All performance warrants have an exercise period of 10.5 years. (5) Based on weighted-average exercise price of general warrant shares. (6) Based on U.S. OSB market share.

ESPN BET: THE FUTURE OF SPORTS MEDIA & BETTING


PENN
ENTERTAINMENT