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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

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

**Date of Report (Date of earliest event reported): October 23, 2008**

**MANDALAY MEDIA, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**00-10039**  
(Commission File Number)

**22-2267658**  
(IRS Employer  
Identification No.)

**2121 Avenue of the Stars, Suite 2550  
Los Angeles, CA 90067**  
(Address of principal executive offices and zip code)

**Registrant's telephone number, including area code: (310) 601-2500**

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 communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

### The Acquisition

As previously disclosed in that Current Report on Form 8-K filed with the Securities and Exchange Commission on October 15, 2008, Mandalay Media, Inc., a Delaware corporation ("Mandalay"), entered into a Stock Purchase Agreement on October 8, 2008 (the "Original Agreement"), with Jonathan Cresswell ("Cresswell"), Nathaniel MacLeitch ("MacLeitch," and together with Cresswell, the "Founding Sellers") and certain shareholders of AMV Holding Limited, a United Kingdom private limited company ("AMV") signatories thereto (the "Non-Founding Sellers"), pursuant to which Mandalay would acquire 100% of the issued and outstanding share capital of AMV and 80% of the issued and outstanding share capital of Fierce Media Limited, a United Kingdom private limited company ("Fierce," and together with AMV, the "Acquired Companies") (the "Acquisition").

On October 23, 2008, Mandalay entered into an Amendment to the Stock Purchase Agreement (the "Amendment"), pursuant to which the parties agreed that any costs, expenses or liabilities incurred by AMV in connection with that certain Senior Secured Note, issued by Twistbox Entertainment, Inc., a wholly-owned subsidiary of Mandalay ("Twistbox"), to ValueAct SmallCap Master Fund, L.P. ("ValueAct"), due January 30, 2010, as amended on February 12, 2008 (the "ValueAct Note"), and as subsequently amended on October 23, 2008 (as set forth below): (i) shall not be considered to be current liabilities of AMV, for purposes of the determination of AMV's working capital and (ii) shall be excluded from the determination of EBITDA for purposes of the calculation of any earn-out payments under the Original Agreement. The foregoing description is qualified in its entirety by reference to the Amendment, which is attached hereto as Exhibit 10.1 and is incorporated by reference herein.

The Acquisition was consummated on October 23, 2008, as more fully described in Item 2.01 of this Current Report on Form 8-K.

### ValueAct

In connection with the Acquisition, on October 23, 2008 Mandalay, Twistbox and ValueAct entered into a Second Amendment (the "Second Amendment") to the ValueAct Note. Among other things, the Second Amendment provides for a payment in kind election, whereby, in lieu of making any cash payments to ValueAct on the following two interest payment dates, Twistbox may elect that the amount of any interest due on such date be added to the principal amount due under the ValueAct Note. In addition, ValueAct agreed to amend the ValueAct Note to modify the covenant requiring that Mandalay and Twistbox maintain certain minimum combined cash balances. Lastly, the Second Amendment provides that an event of default may be triggered in the event Mandalay fails to observe certain covenants as agreed to in the Second Amendment, including a covenant that, until all principal and interest and any other amounts due under the ValueAct Note are paid in full in cash, Mandalay: (i) will not create, incur, assume or permit to exist certain indebtedness, except for indebtedness in connection with a receivables facility as described in the Second Amendment, which indebtedness would rank pari passu in right of payment on the ValueAct Note, provided, that any receivables used to procure and maintain such receivables facility shall not be subject to any lien of ValueAct during the term of such receivables facility; and (ii) will not, and will not permit any subsidiary to, without the prior consent of ValueAct, prepay any indebtedness incurred in connection with the AMV Note, as described in Item 2.01, other than prepayments with proceeds raised in an equity financing as permitted by the AMV Note. The foregoing description is qualified in its entirety to the Second Amendment, which is attached hereto as Exhibit 4.1 and is incorporated by reference herein.

Additionally, on October 23, 2008, in connection with the ValueAct Note, as amended, AMV agreed to grant to ValueAct a security interest in its assets, which ranks senior to the security interest granted to the Sellers as described in Item 2.01 of this Current Report on Form 8-K. AMV also agreed to guarantee Twistbox's repayment of the ValueAct Note.

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As previously disclosed in that Current Report on Form 8-K filed with the Securities and Exchange Commission on February 12, 2008, Mandalay issued to ValueAct two warrants to purchase shares of Mandalay common stock, \$0.0001 par value per share (the "Common Stock"). One warrant entitles ValueAct to purchase up to a total of 1,092,622 shares of Common Stock at an exercise price of \$7.55 per share ("\$7.55 Warrant"). The other warrant entitles ValueAct to purchase up to a total of 1,092,621 shares of Common Stock at an initial exercise price of \$5.00 per share ("\$5.00 Warrant," and together with the \$7.55 Warrant, the "ValueAct Warrants"). On October 23, 2008, Mandalay and ValueAct entered into an allonge to each of the ValueAct Warrants. Among other things, the exercise price of each of the ValueAct Warrants was amended to be \$4.00 per share. The foregoing description is qualified in its entirety by reference to each of the allonges, which are attached as Exhibit 4.2 and Exhibit 4.3 and incorporated by reference herein.

#### Employment Agreements

In connection with the closing of the Acquisition, each of Messrs. MacLeitch and Cresswell entered into full-time employment agreements with AMV. Under the terms of their employment agreements, they each will serve as a joint managing director of AMV. Both employment agreements contain certain restrictive covenants including covenants that prohibit them from disclosing information and property that is confidential to AMV, an agreement not to compete with AMV, and an agreement that ownership of inventions, ideas, copyrights, patents and other intellectual property, which may be used in the business of AMV, whether in existence at the time of employment or coming into existence in the future, are the sole property of AMV. Each employment agreement provides for an annual base salary of £60,000, subject to increase as set forth therein. Messrs. MacLeitch and Cresswell are also eligible to receive a bonus as determined by AMV's board of directors based upon several factors including performance, the profitability of AMV and the achievement of the goals set by AMV's board of directors during each fiscal year. The foregoing description is qualified in its entirety by reference to the employment agreements for Messrs. MacLeitch and Cresswell, which are attached hereto as Exhibit 10.2 and Exhibit 10.3, respectively, and are incorporated by reference herein.

#### Securities Purchase Agreement

On October 23, 2008, Mandalay entered into a Securities Purchase Agreement (the "Securities Purchase Agreement") with certain investors identified therein (individually, an "Investor" and collectively, the "Investors"), pursuant to which Mandalay agreed to sell to the Investors in a private offering an aggregate of 1,685,394 shares of Common Stock and warrants to purchase 842,697 shares of Common Stock (the "Warrants"), for gross proceeds to Mandalay of \$4,500,000 (the "Offering"). The Warrants have a five year term and an exercise price of \$2.67 per share. The funds are currently held in escrow pursuant to an Escrow Agreement, dated October 23, 2008, and will be released to Mandalay upon the earliest of (i) the escrow agent receiving distribution notification from any of the Investors, (ii) the escrow agent receiving distribution notification from Mandalay upon the satisfaction of certain conditions and (iii) November 6, 2008. The foregoing description is qualified in its entirety by reference to the Securities Purchase Agreement, the form of the Warrants and the Escrow Agreement, which are attached hereto as Exhibit 10.4, Exhibit 4.4 and Exhibit 10.6, respectively, and are incorporated by reference herein.

#### **ITEM 2.01 COMPLETION OF ACQUISITION OR DISPOSITION OF ASSETS.**

As disclosed in Item 1.01 of this Current Report on 8-K, which is incorporated by reference herein, Mandalay entered into a Stock Purchase Agreement on October 8, 2008, as subsequently amended on October 23, 2008 (the "Agreement"), with the Founding Sellers and the Non-Founding Sellers. Pursuant to the Agreement, on October 23, 2008, Mandalay consummated the acquisition of 100% of the issued and outstanding share capital of AMV (the "AMV Shares") and 80% of the issued and outstanding share capital of Fierce (the "Fierce Shares," and together with the AMV Shares, the "Shares"). The Founding Sellers and the Non-Founding Sellers, together with the holders of options to purchase shares of capital stock of AMV (the "Option Holder Sellers") who have exercised such options prior to closing and delivered their shares of capital stock of AMV to Mandalay at closing, as provided in the Agreement, are referred to herein as the "Sellers."

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In consideration for the Shares, and subject to adjustment as set forth in the Agreement, the aggregate purchase price (the "Purchase Price") consisted of: (a) \$5,375,000 in cash (the "Cash Consideration"); (b) 4,500,000 fully paid and non-assessable shares of Common Stock (the "Stock Consideration"); (c) a secured promissory note in the aggregate original principal amount of \$5,375,000 (the "Note"); and (d) additional earn-out amounts, if any, if the Acquired Companies achieve certain targeted earnings for each of the periods from October 1, 2008 to March 31, 2009, April 1, 2009 to March 31, 2010, and April 1, 2010 to September 30, 2010, as determined in accordance with the Agreement. The Purchase Price is subject to certain adjustments based on the working capital of AMV, to be determined initially within 75 days of the closing, and subsequently within 60 days following June 30, 2009. Any such adjustment of the Purchase Price will be made first by means of an adjustment to the principal sum due under the Note, as set forth in the Agreement.

Prior to closing, each outstanding option to purchase shares of capital stock of AMV (an "AMV Option") was either exercised in full or terminated. Of the Cash Consideration payable to the Sellers, an amount equal to the exercise price of the AMV Options being exercised was paid to AMV for consideration of such Option Holder Seller's exercise of such AMV Options, and was deducted from the amount of Cash Consideration otherwise payable to such Option Holder Seller. Additionally, of the Cash Consideration, an amount equal to the maximum taxation liability that would be incurred with respect to the payment of the Purchase Price to any Option Holder Sellers under applicable tax laws (the "Tax Withholding"), was delivered to AMV to be held in a separate account. The amount of the Tax Withholding was deducted from the amount of the Cash Consideration otherwise payable to the applicable Option Holder Seller.

The Note matures on January 30, 2010, and bears interest at an initial rate of 5% per annum, subject to adjustment as provided therein. In the event Mandalay completes an equity financing that results in gross proceeds of over \$6,000,000, Mandalay will prepay a portion of the Note in an amount equal to one-third of the excess of the gross proceeds of such financing over \$6,000,000. In addition, if within nine months of the issuance date of the Note, Mandalay completes a financing that results in gross proceeds of over \$15,000,000, then Mandalay shall prepay the entire principal amount then outstanding under the Note, plus accrued interest. If within nine months of the issuance date of the Note, the aggregate principal sum then outstanding under the Note plus accrued interest thereon has not been prepaid, then on and after such date, interest shall accrue on the unpaid principal balance of the Note at a rate of 7% per annum. Additionally, in connection with the Note, AMV granted to the Sellers a security interest in its assets. Such security interest is subordinate to the security interest granted to ValueAct as set forth in Item 1.01 of this Current Report on Form 8-K. AMV also agreed to guarantee Mandalay's repayment of the Note to the Sellers. The foregoing description is qualified in its entirety by reference to the Note, which is attached hereto as Exhibit 10.5 and is incorporated by reference herein.

At closing, each of the Sellers agreed to not dispose of or transfer any of the shares of the Stock Consideration they own for a period of one year following the closing.

### **ITEM 2.03 CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.**

As more fully described in Item 2.01 of this Current Report on Form 8-K, which is incorporated herein by reference, on October 23, 2008, Mandalay issued the Note to the Sellers.

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### ITEM 3.02 UNREGISTERED SALES OF EQUITY SECURITIES.

As more fully described in Item 1.01 of this Current Report on Form 8-K, in connection with the Offering, on October 23, 2008, Mandalay issued 1,685,394 shares of Common Stock and Warrants to purchase 842,697 shares of Common Stock to the Investors. The information contained in Item 1.01 of this Current Report on Form 8-K with respect to the securities issued in the Offering is hereby incorporated by reference. The issuance of the securities in connection with the Offering was exempt from registration pursuant to Rule 506 of Regulation D of the Securities Act of 1933, as amended.

As more fully described in Item 2.01 of this Current Report on Form 8-K, which is incorporated herein by reference, in connection with the Agreement, on October 23, 2008, Mandalay issued the Note and 4,500,000 shares of its Common Stock to the Sellers. The issuance of the securities in connection with the Acquisition was exempt from registration pursuant to Regulation S and Section 4(2) of the Securities Act of 1933, as amended.

### ITEM 8.01 OTHER EVENTS.

On October 27, 2008, the Registrant issued a press release announcing its consummation of the Acquisition, a copy of which is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

### ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

#### (a) Financial Statements of Business Acquired.

The financial statements required by Item 9.01(a) of Form 8-K will be filed no later than 75 days from the date of this Current Report on Form 8-K.

#### (b) Pro Forma Financial Information.

The pro forma financial statements required by Item 9.01(b) of Form 8-K will be filed no later than 75 days from the date of this Current Report on Form 8-K.

#### (d) Exhibits

<b>Exhibit No.</b>	<b>Exhibit</b>
4.1	Second Amendment, by and among Mandalay Media, Inc., Twistbox Entertainment, Inc. and ValueAct SmallCap Master Fund, L.P., dated October 23, 2008, to the Senior Secured Note, issued by Twistbox to ValueAct, due January 30, 2010, and as amended on February 12, 2008.
4.2	Allonge, dated October 23, 2008, to the Warrant dated February 12, 2008 issued to ValueAct.
4.3	Allonge, dated October 23, 2008, to the Warrant dated February 12, 2008 issued to ValueAct.
4.4	Form of Warrant issued to Investors, dated October 23, 2008.
10.1	Amendment to the Stock Purchase Agreement, between Mandalay Media, Inc. and Nathaniel MacLeitch as the Sellers' Representative, dated as of October 23, 2008.
10.2	Employment Agreement, by and between AMV Holding Limited and Nathaniel MacLeitch, dated as of October 23, 2008.
10.3	Employment Agreement, by and between AMV Holding Limited and Jonathan Cresswell (a/k/a Jack Cresswell), dated as of October 23, 2008.
10.4	Securities Purchase Agreement, by and among Mandalay Media, Inc. and the investors set forth therein, dated as of October 23, 2008.
10.5	Note, dated October 23, 2008, issued by Mandalay Media, Inc. to Nathaniel MacLeitch, as the Sellers' Representative.
10.6	Escrow Agreement, by and between Mandalay Media, Inc., the Investors identified therein and American Stock Transfer and Trust Company, LLC, dated as of October 23, 2008.
99.1	Press Release, dated October 27, 2008.

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## SIGNATURES

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

**MANDALAY MEDIA, INC.**

Date: October 27, 2008

By: /s/ James Lefkowitz

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James Lefkowitz  
President

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## SECOND AMENDMENT AND WAIVER TO SENIOR SECURED NOTE

This **SECOND AMENDMENT AND WAIVER TO SENIOR SECURED NOTE** (this "**Amendment**") amends that Senior Secured Note due January 30, 2010, as amended on February 12, 2008 (the "**Secured Note**") issued pursuant to the Securities Purchase Agreement, dated July 30, 2007 (the "**Purchase Agreement**") by and among TWISTBOX ENTERTAINMENT, INC., a Delaware corporation (the "**Company**"), certain subsidiaries of the Company and VALUEACT SMALLCAP MASTER FUND, L.P. (the "**Investor**") and is made and entered into as of October 23, 2008 by and between the Company and the Investor. Capitalized terms used and not otherwise defined in this Amendment are used herein as defined in the Secured Note.

### WITNESSETH:

WHEREAS, the Company and the Investor desire to amend certain provisions of the Secured Note and to waive compliance with certain provisions of the Secured Note.

WHEREAS, Section 13 of the Secured Note provides that the terms thereof may be amended or waived only pursuant to a written instrument executed by the Company and the holders of 75% of the aggregate principal amount of all Notes issued pursuant to the Purchase Agreement.

WHEREAS, the Investor owns 100% of the aggregate principal amount of all Notes issued pursuant to the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

#### 1. Waiver.

**1.1 Waiver of Section 5.** The Investor hereby waives compliance with the covenants set forth in Section 5 of the Secured Note with respect to the issuance by Guarantor to the Sellers (as defined below) of that certain promissory note in the principal amount of \$5,375,000 in connection with that certain Stock Purchase Agreement, entered into by and among Guarantor, Jack Cresswell ("**Cresswell**"), Nathaniel MacLeitch ("**MacLeitch**") and the shareholders of AMV Holding Limited ("**AMV**") signatories thereto (together with Cresswell and MacLeitch, the "**Sellers**"), dated as of October 8, 2008, relating to Guarantor's acquisition of 100% of the share capital of AMV and 80% of the share capital of Fierce Media Limited (the "**Purchase Agreement**").

#### 2. Amendment.

**2.1 Amendment to Section 1.** Section 1 of the Secured Note is hereby amended by adding the following new paragraph after the fourth paragraph of Section 1:

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“PIK Election. Notwithstanding anything to the contrary set forth herein, the Company may, at its option, in lieu of making any cash payments to the Investor with respect to the two Interest Payment Dates occurring on January 1, 2009 and July 1, 2009, elect that the amount of any Interest due and payable on such dates be added to the principal amount then due under this Note. An election by the Company to pay the Interest on any Interest Payment Date by adding the amount of such payment to the Principal under this Note is hereafter referred to as a **“PIK Election.”** The Company shall provide written notice of a PIK Election to the Investor not less than five days prior to the Interest Payment Date to which such PIK Election relates.”

**2.2 Amendment to Section 1.** Section 1 of the Secured Note is hereby amended by adding the following language to the end of Section 1:

“If the Company makes any payments of principal due under the Note on October 23, 2008 up to an aggregate principal payment of FIVE MILLION DOLLARS (\$5,000,000), an equivalent amount of principal shall automatically be converted into fully paid and nonassessable shares of common stock, par value \$0.0001 per share (the **“Mandalay Common Stock”**) of Mandalay Media, Inc., the Company’s parent company, at a price per share equal to \$2.67 (the **“Conversion”**).

In connection with any Conversion, the Company shall send a written conversion notice to the Investor. Such notice shall state the date on which the Conversion became effective and all instructions and materials necessary to enable Investor to receive the certificate(s) representing the shares of Mandalay Common Stock into which such principal amount due under this Note has been converted.

If required by the Company, Investor shall deliver an instrument of cancellation executed by the Investor in form and substance reasonably acceptable to the Company evidencing the payment of the principal amount due under this Note that has been converted into Mandalay Common Stock.

The Company shall, promptly after the date of Conversion, issue and deliver to such holder of this Note, or to his or its nominees, a certificate or certificates for the number of shares of Mandalay Common Stock to which such holder shall be entitled. The Investor shall not have, solely on account of such status as a holder of this Note, any rights of a stockholder of Mandalay Media, Inc., either at law or in equity, except as provided in this Note.

**2.3 Amendment to Section 3.** The Secured Note is hereby amended by adding the following paragraph to Section 3:

“(m) Guarantor shall fail to observe its covenant contained in Section 6 of this Note.”



**2.4 Amendment to Section 5.** The Secured Note is hereby amended by deleting the first two sentences following Section 5(e) and replacing such text with the following:

“The Company and Mandalay Media, Inc., the Company’s parent corporation (the “**Guarantor**”), collectively shall (a) not be required to maintain any minimum cash balance until April 23, 2009, (b) maintain a cash balance of not less than \$4,000,000 from April 24, 2009 until July 23, 2009 and (c) maintain a cash balance of not less than \$5,000,000 on and after July 24, 2009, to be held in a “deposit account”, as such term is defined in Article 9 of the Uniform Commercial Code as in effect from time to time in the State of New York (the “UCC”), free and clear of all Liens except as set forth in the Guarantee and Security Agreement and will provide the Investor with reasonable proof of such cash balance as reasonably requested by the Investor from time to time.”

**2.5 Amendment to Section 6(a)(v).** The Secured Note is hereby amended by replacing the text of Section 6(a)(v) with the following:

“Indebtedness in connection with a receivables facility not in excess of the lesser of (x) \$10,000,000 or (y) 85% of the Net Receivables Balance (as defined in the Guarantee and Security Agreement) at any point in time, which Indebtedness shall rank pari passu in right of payment to the Notes, provided, that, notwithstanding anything to the contrary set forth herein, Investor acknowledges and agrees that (and shall take all action reasonably necessary to ensure that) the Receivables (as defined in the Guarantee and Security Agreement) of the Company used to procure and maintain such receivables facility shall not be subject to any Lien of Investor (the “**Receivables Facility**”) during the term of such Receivables Facility,”

**2.6 Amendment to Section 6.** The Secured Note is hereby amended by adding the following language to the end of Section 6:

“Until all principal and interest and any other amounts due and payable under this Note have been paid in full in cash, Guarantor shall not, and shall not permit any Subsidiary to, without the prior written approval of the Investor holding a majority in principal amount of the Notes, prepay any Indebtedness incurred pursuant to that certain promissory note issued by Guarantor to Nathan MacLeitch, Jack Cresswell and the shareholders of AMV Holding Limited in the principal amount of FIVE MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (**\$5,375,000**) on October 23, 2008 (the “**Promissory Note**”) other than prepayments with proceeds raised in an equity financing by Guarantor and subject to the terms and conditions set forth in Section 1(c) and Section 1(d) of the Promissory Note.”

3. Costs and Expenses. The Company agrees to pay for the reasonable legal expenses of the Investor for the negotiation and preparation of this Amendment in the aggregate amount of up to \$100,000.

4. Effectiveness of this Amendment. This Amendment shall have no force or effect until immediately prior to the Closing (as defined in the Purchase Agreement).

5. Full Force and Effect. Except as modified by this Amendment, all other terms and conditions in the Secured Note shall remain in full force and effect.

6. Effect. Unless the context otherwise requires, the Secured Note and this Amendment shall be read together and shall have effect as if the provisions of the Secured Note and this Amendment were contained in one agreement. After the effective date of this Amendment, all references in the Secured Note to “this Note,” “hereto,” “hereof,” “hereunder” or words of like import referring to the Secured Note shall mean the Secured Note as modified by this Amendment.

7. Counterparts. This Amendment may be executed in separate counterparts, all of which taken together shall constitute a single instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the day and year first above written.

**THE COMPANY:**

TWISTBOX ENTERTAINMENT, INC.

By: /s/ Ian Aaron  
Name: Ian Aaron  
Title: President and Chief Executive Officer

**INVESTOR:**

VALUEACT SMALLCAP MASTER FUND, L.P.,  
By VA Smallcap Partners, LLC, its General Partner

By: /s/ David Lockwood  
Name: David Lockwood  
Title: Managing Member

MANDALAY MEDIA, INC.

By: /s/ James Lefkowitz  
Name: James Lefkowitz  
Title: President

## ALLONGE TO WARRANT TO PURCHASE 1,092,622 SHARES

This Allonge (this "Allonge") to that certain warrant issued by Mandalay Media, Inc. (the "Company") to ValueAct Smallcap Master Fund, L.P. ("Holder") to purchase up to a total of 1,092,622 shares of common stock, \$0.0001 par value per share ("Common Stock") of the Company, at an exercise price equal to \$7.55 per share (the "Warrant"), is made and entered into as of October 23, 2008, by and between the Company and the Holder, and is firmly affixed to and made a part of the Warrant.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Company and Holder hereby agree that the Warrant is hereby amended as set forth below. Capitalized terms used but not defined herein shall have the meaning set forth in the Warrant.

1. The Exercise Price of "\$7.55 per share" is hereby deleted and "\$4.00 per share" is hereby substituted in its place.

2. The text contained in Section 3 is hereby deleted and replaced with the following:

3. Lock-Up. Holder agrees with the Company that, during a period of one (1) year from the date of the Effective Time (as such term is defined in the Agreement and Plan of Merger by and among the Company, Twistbox Acquisition, Inc., Twistbox Entertainment, Inc. ("**Twistbox**") and Adi McAbian and Spark Capital L.P. as representatives of the stockholders of Twistbox), Holder will not, directly or indirectly, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, or otherwise dispose of or transfer any Warrant Shares or any securities convertible into or exchangeable or exercisable for Warrant Shares, or file, or cause to be filed, any registration statement under the Securities Act with respect to any of the foregoing (collectively, the "**Lock-Up Securities**") or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Lock-Up Securities, whether any such swap or transaction is to be settled by delivery of Warrant Shares, in cash or otherwise. The Holder also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Holder's Warrant Shares except in compliance with the foregoing restrictions.

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3. All references to the "Warrant" and any other instrument or document delivered in connection therewith shall be deemed to mean the Warrant as amended by this Allonge.

4. As hereby amended, the Warrant is hereby ratified and confirmed in all respects.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, THE EXECUTION hereof as an instrument under seal as of the date first set forth above and shall be governed by the laws of the State of New York.

**MANDALAY MEDIA, INC.**

By: /s/ James Lefkowitz  
Its: President

**VALUEACT SMALLCAP MASTER FUND, L.P.,**

By VA Smallcap Partners, LLC, its General Partner

By: /s/ David Lockwood  
Name: David Lockwood  
Title: Managing Member

## **ALLONGE TO WARRANT TO PURCHASE 1,092,621 SHARES**

This Allonge (this "Allonge") to that certain warrant issued by Mandalay Media, Inc. (the "Company") to ValueAct Smallcap Master Fund, L.P. ("Holder") to purchase up to a total of 1,092,621 shares of common stock, \$0.0001 par value per share ("Common Stock") of the Company, at an exercise price equal to \$5.00 per share (the "Warrant"), is made and entered into as of October 23, 2008, by and between the Company and the Holder, and is firmly affixed to and made a part of the Warrant.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Company and Holder hereby agree that the Warrant is hereby amended as set forth below. Capitalized terms used but not defined herein shall have the meaning set forth in the Warrant.

1. The Exercise Price of "\$5.00 per share" is hereby deleted and "\$4.00 per share" is hereby substituted in its place.
  2. The text contained in Section 9(c) of the Warrant is hereby deleted and replaced with the following: "This Section 9(c) is intentionally left blank."
  3. The text contained in Section 3 is hereby deleted and replaced with the following:
    3. **Lock-Up.** Holder agrees with the Company that, during a period of one (1) year from the date of the Effective Time (as such term is defined in the Agreement and Plan of Merger by and among the Company, Twistbox Acquisition, Inc., Twistbox Entertainment, Inc. ("**Twistbox**") and Adi McAbian and Spark Capital L.P. as representatives of the stockholders of Twistbox), Holder will not, directly or indirectly, (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, or otherwise dispose of or transfer any Warrant Shares or any securities convertible into or exchangeable or exercisable for Warrant Shares, or file, or cause to be filed, any registration statement under the Securities Act with respect to any of the foregoing (collectively, the "**Lock-Up Securities**") or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Lock-Up Securities, whether any such swap or transaction is to be settled by delivery of Warrant Shares, in cash or otherwise. The Holder also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Holder's Warrant Shares except in compliance with the foregoing restrictions.
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3. All references to the “Warrant” and any other instrument or document delivered in connection therewith shall be deemed to mean the Warrant as amended by this Allonge.

4. As hereby amended, the Warrant is hereby ratified and confirmed in all respects.

*[Remainder of page intentionally left blank]*



IN WITNESS WHEREOF, THE EXECUTION hereof as an instrument under seal as of the date first set forth above and shall be governed by the laws of the State of New York.

**MANDALAY MEDIA, INC.**

By: /s/ James Lefkowitz  
Its: President

**VALUEACT SMALLCAP MASTER FUND, L.P.,**  
By VA Smallcap Partners, LLC, its General Partner

By: /s/ David Lockwood  
Name: David Lockwood  
Title: Managing Member

NEITHER THESE SECURITIES NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY. THESE SECURITIES AND THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT SECURED BY SUCH SECURITIES.

**MANDALAY MEDIA, INC.**

**WARRANT**

Warrant No. [●]

Date of Original Issuance: \_\_\_\_\_

**Mandalay Media, Inc.**, a Delaware corporation (the "**Company**"), hereby certifies that, for value received, \_\_\_\_\_ or its registered assigns (the "**Holder**"), is entitled to purchase from the Company up to a total of [●][FIFTY PERCENT OF THE NUMBER OF SHARES PURCHASED] shares of common stock, \$0.0001 par value per share (the "**Common Stock**"), of the Company (each such share, a "**Warrant Share**" and all such shares, the "**Warrant Shares**"), at an exercise price equal to \$2.67 per share (as adjusted from time to time as provided in Section 9, the "**Exercise Price**"), at any time and from time to time from and after the date hereof and through and including October [●], 2013 (the "**Expiration Date**"), and subject to the following terms and conditions:

1. Definitions. In addition to the terms defined elsewhere in this Warrant, capitalized terms that are not otherwise defined herein shall have the meanings given to such terms in the Securities Purchase Agreement of even date herewith to which the Company and the original Holder are parties (the "**Securities Purchase Agreement**"). This warrant is one of a series of warrants (collectively, the "**Warrants**") issued pursuant to and in connection with the Securities Purchase Agreement.

2. Registration of Warrant. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "**Warrant Register**"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent written notice to the contrary.

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3. Registration of Transfers. The Company shall register the transfer of any portion of this Warrant in the Warrant Register, upon surrender of this Warrant, with the Form of Assignment attached hereto duly completed and signed, to the Company at its address specified herein. Upon any such registration or transfer, a new Warrant to purchase Common Stock, in substantially the form of this Warrant (any such new Warrant, a "**New Warrant**"), evidencing the portion of this Warrant so transferred shall be issued to the transferee and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the transferee thereof shall be deemed the acceptance by such transferee of all of the rights and obligations of a holder of a Warrant.

4. Exercise and Duration of Warrants.

(a) This Warrant shall be exercisable by the registered Holder at any time and from time to time on or after the date hereof to and including the Expiration Date. At 5:30 p.m., New York City time on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value; provided that, on the Expiration Date, if the closing price of the Common Stock as reported on the New York Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market or the OTC Bulletin Board, as applicable (the "**Trading Market**"), exceeds the then applicable Exercise Price, this Warrant shall be deemed to have been exercised in full (to the extent not previously exercised) on a "cashless exercise" basis immediately prior to expiration thereof.

(b) A Holder may exercise this Warrant by delivering to the Company (i) an exercise notice, in the form attached hereto (the "**Exercise Notice**") (with the attached Warrant Shares Exercise Log), appropriately completed and duly signed along with the Warrant, and (ii) payment of the then applicable Exercise Price for the number of Warrant Shares as to which this Warrant is being exercised (which may take the form of (x) cash or (y) a "cashless exercise" pursuant to Section 10 below), and the date such items are delivered to the Company (as determined in accordance with the notice provisions hereof) is a "**Date of Exercise**." Execution and delivery of the Exercise Notice shall have the same effect as cancellation of the original Warrant and issuance of a New Warrant evidencing the right to purchase the remaining number of Warrant Shares.

5. Delivery of Warrant Shares.

(a) Upon exercise of this Warrant, the Company shall promptly issue or cause to be issued and cause to be delivered to or upon the written order of the Holder a certificate for the Warrant Shares issuable upon such exercise.

(b) This Warrant is exercisable, either in its entirety or, from time to time, in part. Upon surrender of this Warrant following one or more partial exercises, the Company shall issue or cause to be issued, at its expense, a New Warrant evidencing the right to purchase the remaining number of Warrant Shares.

(c) The Company's obligations to issue and deliver Warrant Shares in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person (as defined herein) or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of Warrant Shares. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof. "**Person**" shall mean any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or governmental entity

6. Charges, Taxes and Expenses. Issuance and delivery of certificates for shares of Common Stock upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, withholding tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

7. Replacement of Warrant. If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity (which shall not include a surety bond), if requested. Applicants for a New Warrant under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Company may prescribe. If a New Warrant is requested as a result of a mutilation of this Warrant, then the Holder shall deliver such mutilated Warrant to the Company as a condition precedent to the Company's obligation to issue the New Warrant.

8. Reservation of Warrant Shares. The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of persons other than the Holder (taking into account the adjustments and restrictions of Section 9). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable. The Company will take all such action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any securities exchange, over-the-counter bulletin board or automated quotation system upon which the Common Stock may be listed.

9. Certain Adjustments. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 9.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Fundamental Transactions. If, at any time while this Warrant, or any portion hereof, is outstanding and unexpired there shall be (i) a reorganization (other than a combination, reclassification, exchange or subdivision of shares otherwise provided for herein), (ii) a merger or consolidation of the Company with or into another Person in which the Company is not the surviving entity, or a reverse triangular merger in which the Company is the surviving entity but the shares of the Company's capital stock outstanding immediately prior to the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise, (iii) a sale of all or substantially all of the Company's assets to another Person in one or a series of related transactions, (iv) any tender offer or exchange offer (whether by the Company or another Person) completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (v) any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property (each of (i)-(v), a "**Fundamental Transaction**"), then, as a part of such Fundamental Transaction, lawful provision shall be made so that the Holder shall thereafter be entitled to receive upon exercise of this Warrant, during the period specified herein and upon payment of the Exercise Price then in effect, the number of shares of stock or other securities or property resulting from a Fundamental Transaction that a Holder upon exercise of this Warrant would have been entitled to receive in such Fundamental Transaction if this Warrant had been exercised immediately before such Fundamental Transaction, all subject to further adjustment as provided in this Section 9. The foregoing provision of this Section 9(b) shall similarly apply to successive reorganizations, consolidations, mergers, sales and transfers and to the stock or securities of any other corporation that are at the time receivable upon the exercise of this Warrant. If holders of Common Stock are given any choice as to the securities, cash or security to be received in a Fundamental Transaction, then the Holder shall be given the same choice. If the per share consideration payable to the Holder for shares in connection with any such transaction is in a form other than cash or marketable securities, then the value of such consideration shall be determined in good faith by the Company's Board of Directors. If the per share consideration payable to the Holder for shares in connection with any such transaction is in a form other than cash or marketable securities, appropriate adjustment (as determined in good faith by the Company's Board of Directors) shall be made in the application of the provisions of this Warrant with respect to the rights and interests of the Holder after the transaction (including provisions for adjustment to the Exercise Price), to the end that the provisions of this Warrant shall be applicable after that event, as near as reasonably may be, in relation to any shares or other property deliverable after that event upon exercise of this Warrant. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 9(b) and insuring that the Warrant (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to a Fundamental Transaction.

(c) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to paragraph (a) of this Section 9, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

(d) Calculations. All calculations under this Section 9 shall be made to the nearest cent or the nearest 1/100<sup>th</sup> of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issue or sale of Common Stock.

(e) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 9, the Company at its expense will promptly compute such adjustment in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company's transfer agent.

(f) Notice of Corporate Events. If the Company (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock, including without limitation any granting of rights or warrants to subscribe for or purchase any capital stock of the Company or any Subsidiary, (ii) authorizes or approves, enters into any agreement contemplating or solicits stockholder approval for any Fundamental Transaction or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction, at least ten business days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to exercise this Warrant prior to such time so as to participate in or vote with respect to such transaction; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

10. Payment of Exercise Price. The Holder may pay the Exercise Price in one of the following manners:

(a) Cash Exercise. The Holder may deliver immediately available funds to an account designated by the Company; or

(b) Cashless Exercise. The Holder may notify the Company in an Exercise Notice of its election to utilize cashless exercise, in which event the Company shall issue to the Holder the number of Warrant Shares determined as follows:

$$X = Y [(A-B)/A]$$

where:

X = the number of Warrant Shares to be issued to the Holder.

Y = the number of Warrant Shares with respect to which this Warrant is being exercised.

A = the average of the closing bid and asked prices of the Common Stock quoted in the Over-The-Counter Market Summary or the last reported sale price of Common Stock or the closing price quoted on any other Trading Market on which the Common Stock is listed, whichever is applicable, for the five trading days immediately prior to (but not including) the Exercise Date.

B = the Exercise Price.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued.

11. No Rights as Stockholder. Until the exercise of this Warrant, the Holder shall not have or exercise any rights by virtue hereof as a stockholder of the Company.

12. No Fractional Shares. No fractional shares of Warrant Shares will be issued in connection with any exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the closing price of one Warrant Share as reported by the applicable Trading Market on the date of exercise.

13. Notices. Any and all notices or other communications or deliveries hereunder (including, without limitation, any Exercise Notice) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section 13 prior to 5:30 p.m. (New York City time) on a business day, (ii) the next business day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section 13 on a day that is not a business day or later than 5:30 p.m. (New York City time) on any business day, (iii) the business day following the date of mailing, if sent by nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. The addresses for such communications shall be: (i) if to the Company, to Mandalay Media, Inc., 2121 Avenue of the Stars, Suite 2550, Los Angeles, CA 90067 Attention: President, Facsimile No.: 310-277-2741 or such other address as the Company shall so notify the Holder, or (ii) if to the Holder, to the address or facsimile number appearing on the Warrant Register or such other address or facsimile number as the Holder may provide to the Company in accordance with this Section 13.

14. Warrant Agent. The Company shall serve as warrant agent under this Warrant. Upon 10 business days' notice to the Holder, the Company may appoint a new warrant agent. Any corporation into which the Company or any new warrant agent may be merged or any corporation resulting from any consolidation to which the Company or any new warrant agent shall be a party or any corporation to which the Company or any new warrant agent transfers substantially all of its corporate trust or shareholders services business shall be a successor warrant agent under this Warrant without any further act. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed (by first class mail, postage prepaid) to the Holder at the Holder's last address as shown on the Warrant Register.

15. Miscellaneous.

(a) This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant. This Warrant may be amended only in writing signed by the Company and the Holder and their successors and assigns.

(b) ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS WARRANT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING, WITHOUT LIMITATION, SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND NEW YORK CIVIL PRACTICE LAWS AND RULES 327(b). EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS SITTING IN THE CITY OF NEW YORK, BOROUGH OF MANHATTAN, FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR WITH ANY TRANSACTION CONTEMPLATED HEREBY OR DISCUSSED HEREIN (INCLUDING WITH RESPECT TO THE ENFORCEMENT OF ANY OF THE TRANSACTION DOCUMENTS), AND HEREBY IRREVOCABLY WAIVES, AND AGREES NOT TO ASSERT IN ANY SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY SUCH COURT, THAT SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER. EACH PARTY HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF PROCESS AND CONSENTS TO PROCESS BEING SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING BY MAILING A COPY THEREOF VIA REGISTERED OR CERTIFIED MAIL OR OVERNIGHT DELIVERY (WITH EVIDENCE OF DELIVERY) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE GOOD AND SUFFICIENT SERVICE OF PROCESS AND NOTICE THEREOF. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT IN ANY WAY ANY RIGHT TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW. THE COMPANY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY.



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

(d) In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(e) This Warrant may be executed and acknowledged in one or more counterparts by the different parties hereto, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK,  
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its authorized officer as of the date first indicated above.

**MANDALAY MEDIA, INC.**

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

Name:

Title:

Acknowledged and accepted:

**[●]**

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

Name:

Title:

**[Signature Page to Warrant]**

**FORM OF EXERCISE NOTICE**

To be executed by the Holder to exercise the right to purchase shares of Common Stock under the foregoing Warrant.

To: MANDALAY MEDIA, INC.

The undersigned is the Holder of Warrant No. \_\_\_\_\_ (the "**Warrant**") issued by Mandalay Media, Inc., a Delaware corporation (the "**Company**"). Capitalized terms used herein and not otherwise defined have the respective meanings set forth in the Warrant.

- (1) The Warrant is currently exercisable to purchase a total of \_\_\_\_\_ Warrant Shares.
- (2) The undersigned Holder hereby exercises its right to purchase \_\_\_\_\_ Warrant Shares pursuant to the Warrant.
- (3) The Holder intends that payment of the Exercise Price shall be made as (check one):

\_\_\_\_\_ "Cash Exercise" under Section 10

\_\_\_\_\_ "Cashless Exercise" under Section 10

- (4) If the Holder has elected a Cash Exercise, the holder shall pay the sum of \$\_\_\_\_\_ to the Company in accordance with the terms of the Warrant.
- (5) Pursuant to this exercise, the Company shall deliver to the holder \_\_\_\_\_ Warrant Shares in accordance with the terms of the Warrant.
- (6) Following this exercise, the Warrant shall be exercisable to purchase a total of \_\_\_\_\_ Warrant Shares.

Dated: \_\_\_\_\_, \_\_\_\_\_

Name of Holder:

(Print) \_\_\_\_\_

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

Name: \_\_\_\_\_

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

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

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Warrant Shares Exercise Log

Date	Number of Warrant Shares Available to be Exercised	Number of Warrant Shares Exercised	Number of Warrant Shares Remaining to be Exercised

**MANDALAY MEDIA, INC.**  
WARRANT ORIGINALLY ISSUED OCTOBER [●], 2008  
WARRANT NO. [●]

FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the right represented by the above-captioned Warrant to purchase \_\_\_\_\_ shares of Common Stock to which such Warrant relates and appoints \_\_\_\_\_ attorney to transfer said right on the books of the Company with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

\_\_\_\_\_  
Address of Transferee

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the presence of:

\_\_\_\_\_

\_\_\_\_\_

**AMENDMENT TO  
STOCK PURCHASE AGREEMENT**

This Amendment, dated as of October 23, 2008, is between Mandalay Media, Inc., a Delaware corporation (“Buyer”) and Nathaniel MacLeitch as the Sellers’ Representative.

1. Reference to Purchase Agreement. Reference is made to the Stock Purchase Agreement, dated as of October 8, 2008, by and among Buyer, Jonathan Cresswell (a/k/a Jack Cresswell), Nathaniel MacLeitch and the shareholders of AMV signatories thereto (the “Purchase Agreement”). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement.

2. Amendment to Section 1.1 of the Purchase Agreement. The following language is hereby added to the end of the definition of “Working Capital” in Section 1.1 of the Purchase Agreement:

“For purposes of the determination of Working Capital, any costs, expenses or liabilities incurred by AMV in connection with that certain Senior Secured Note, issued by Twistbox Entertainment, Inc. to ValueAct Smallcap Master Fund, L.P., due January 30, 2010, as amended on February 12, 2008 and October 23, 2008, shall not be considered to be current liabilities of AMV.”

3. Amendment to Section 2.4 of the Purchase Agreement. Section 2.4(a) of the Purchase Agreement is hereby amended by adding the following subsection (iv): “ and/or (iv) any costs, expenses or liabilities incurred by AMV in connection with that certain Senior Secured Note issued by Twistbox Entertainment, Inc. to ValueAct Smallcap Master Fund, L.P., due January 30, 2010, as amended on February 12, 2008 and October 23, 2008, shall be excluded from the EBITDA determination.”, such that Section 2.4(a) reads as follows:

“(a) Delivery of Financial Information. Within 90 days after the last Business Day of each Earn-Out Period (as defined below), Buyer shall deliver to Sellers’ Representative (at Buyer’s cost and expense) a worksheet (the “Earn-Out Worksheet”) prepared by AMV’s accountants or Buyer’s accountants (or its designee), setting forth Buyer’s determination of earnings before interest, tax, depreciation and amortization (each measured in accordance with UK GAAP) as determined from the Seller Companies’ historical financial statements consistent with past practice (“EBITDA”). Notwithstanding the foregoing, the determination of EBITDA for any Earn-Out Period shall be made using the following guidelines: (i) except as set forth below, any profits, losses or other items relating to Fierce shall be excluded from the EBITDA determination, (ii) any payments or management charges made by AMV at the written direction of Buyer or the board of directors of AMV, which are outside of the normal course of operations of AMV shall be excluded from the EBITDA determination, (iii) any revenue from any source, except as contemplated by the parties, other than the existing business of the Acquired Companies on the date hereof shall not be included in the EBITDA determination and/or (iv) any costs, expenses or liabilities incurred by AMV in connection with that certain Senior Secured Note, issued by Twistbox Entertainment, Inc. to ValueAct Smallcap Master Fund, L.P., due January 30, 2010, as amended on February 12, 2008 and October 23, 2008, shall be excluded from the EBITDA determination. Subject to execution of a Non-Disclosure Agreement in customary form, Sellers shall have the right, at Sellers’ expense, during each Earn-Out Period, at reasonable times and upon reasonable notice, to examine, and to have the Sellers’ Representative and their advisors examine, the books and records of the Seller Companies to determine whether the calculation and payment of the Earn-Out Payment are being conducted in accordance with the provisions of this Agreement.”

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4. Miscellaneous. Except as otherwise set forth herein, the Purchase Agreement shall remain in full force and effect without change or modification. This Amendment may be executed in any number of counterparts, which together shall constitute one instrument, and shall bind and inure to the benefit of the parties and their respective successors and assigns.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

**MANDALAY MEDIA, INC.**

By: /s/ James Lefkowitz

Name: James Lefkowitz

Title: President

**SELLERS' REPRESENTATIVE:**

/s/ Nathaniel MacLeitch

Nathaniel MacLeitch

---



October 23, 2008

Nathaniel MacLeitch  
AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

Re: Employment Agreement

Dear Mr. MacLeitch,

I am writing to set out the terms of your employment with AMV Holding Limited (the "Company").

**IT IS AGREED** as follows:

**1. JOB TITLE, DUTIES AND CONDUCT**

- 1.1. You are employed as a joint managing director of the Company and you shall serve the Company in this, or an equivalent position, and in such other position or positions with the Company and its subsidiaries and affiliates consistent with your position as a joint managing director of the Company and shall perform such duties as the Chief Executive Officer of Twistbox Entertainment, Inc. (the "CEO") or the Board of Directors of Mandalay Media, Inc. shall reasonably assign you from time to time. You shall report directly to the CEO or such other person as the Company shall determine from time to time.
- 1.2. You shall devote substantially all of your business time and attention to the services required of you hereunder, and shall perform such services in a manner consistent with the duties of your position, provided the foregoing shall not prevent you from (i) serving on the board of directors of non-profit organizations and, with the prior written approval of the Board, other companies, (ii) participating in charitable, civic, educational, professional, community or industry affairs and (iii) managing your and your family's passive personal investments; provided such activities in the aggregate do not interfere or conflict with your duties hereunder or create a potential business conflict. You shall be subject to the terms and conditions of any applicable policy of the Company regarding service on behalf of any other organization.
- 1.3. During the Employment, you shall not become associated with any entity, whether as a principal, partner, employee, director, consultant, joint venturer, lender, investor, individual proprietor, shareholder or otherwise (other than as a holder of not in excess of 2% of the outstanding voting shares of any publicly held company), that is actively engaged or preparing to be actively engaged in any geographic area in any business which is in competition with a business conducted by the Company or any of its subsidiaries or affiliates at the time of the alleged competition. During the Employment, you shall not engage in any activity or activities preparatory to competing with the Company.

**2. DATE OF COMMENCEMENT**

Your employment with the Company will commence as of the date hereof (the "Commencement Date") and shall be subject to earlier termination in accordance with its terms.

No previous employment with a previous employer counts as part of your period of continuous employment which commenced on the Commencement Date.

### **3. COMPENSATION**

- 3.1. Your base salary during the first Earn-Out Period (as defined in the Stock Purchase Agreement, by and among Mandalay Media, Inc., Nathaniel MacLeitch, Jack Cresswell and the shareholders of the Company signatories thereto, dated as of October 8, 2008 (the "Stock Purchase Agreement"), which will accrue from day to day, will be at the rate of £60,000 per annum payable monthly in arrears direct into your bank account on or before the last day of each calendar month. Where this falls on a weekend or public holiday, payment will be made on the last working day before that day. Within ten (10) days of the beginning of the second Earn-Out Period and the third Earn-Out Period, as applicable, you may provide the Company with a notice setting forth the base salary you wish to receive for such period, which shall be no greater than £100,000 per annum. In the event that you fail to provide the Company with such a notice within such ten day period, your base salary for such period shall be £60,000 per annum. After the expiration of the Earn-Out Term (as defined in the Stock Purchase Agreement), your base salary will be reviewed on an annual basis in March of each year. There is no obligation on the Company to increase the level of your base salary at a review. An increase awarded in one year will not influence or set a precedent in relation to future years.
- 3.2. Following the expiration of the Earn-Out Term, you may then be eligible to receive a performance/merit bonus as determined by Company's Board based upon several factors including the profitability of the Company, your performance and the achievement of the goals set by the Company's Board during each fiscal year. Any bonus paid to you is entirely discretionary and there is no contractual entitlement to receive it nor shall it be deemed to become part of your contractual remuneration or salary for pension purposes or otherwise. In the event your employment is terminated or you are under notice of termination prior to the payment date (whether such notice is given by the Company or you) you will forfeit all and any rights and entitlements to a bonus and will not have any rights against the Company in respect of the loss of such entitlement. The Company reserves in its absolute discretion the right to terminate or amend any bonus scheme without notice to you. Receipt of a discretionary bonus one year creates neither right to nor expectation of any bonus in the next year.
- 3.3. You authorise the Company at any time during your employment, or in any event on the termination of your employment, howsoever arising, to deduct from your salary and from any other sums reimbursable to you by the Company, any monies from time to time due from you to the Company including, but not limited to any outstanding loans, advances, payment for excess holiday, overpayment of wages and any other monies owed by you to the Company.
- 3.4. You shall be entitled to participate in all bonus and benefit programs that the Company establishes and makes available to its executive employees, if any, to the extent that your position, tenure, salary, age, health and other qualifications make you eligible to participate, including, but not limited to, health care plans, life insurance plans, disability insurance, retirement plans, and all other benefit plans from time to time in effect. The Company shall pay for your participation in the health care plan that it currently has in place. The Company shall also reimburse you up to £500 per month for the lease of an automobile to be used in connection with your employment with the Company.

#### **4. LOCATION**

Your principal place of work at the date of this letter is 65 High Street Marlow Bucks SL7 1AB, United Kingdom. You may also be required to travel within the UK and abroad in the course of your duties from time to time at the reasonable discretion of the Company.

#### **5. HOURS OF WORK**

- 5.1. Your normal hours of work are from 8:00 a.m. to 5:00 p.m. or 9.00 a.m. to 6.00 p.m. Monday through Friday, inclusive. You are entitled to a one (1) hour lunch break. You may be required to work additional hours either, as and when requested by the Company, or when the proper performance of your work requires. You will not be entitled to be paid extra remuneration for any such additional hours worked in excess of your basic weekly hours.
- 5.2. You agree that the limit in regulation 4(1), Working Time Regulations 1998 (“the Regulations”) does not apply during your employment and that if necessary for the proper performance of your duties you will work more than an average of 48 hours in each seven day period (as defined by and calculated in accordance with the Regulations). You can withdraw your agreement to the terms of this clause by giving to the Company three months’ written notice.

#### **6. HOLIDAY ENTITLEMENT**

- 6.1. Your annual holiday entitlement is twenty-five (25) days in the Company’s holiday year which runs from January to December, plus Bank Holidays in England and Wales. Your entitlement for a part year will be pro-rated according to your annual entitlement. You are entitled to your full remuneration and benefits during days taken as holiday.
- 6.2. You are required to give at least two weeks’ notice of a proposed holiday. No more than 10 consecutive days’ holiday (plus weekends falling in between) may be taken at any one time. The provisions of regulations 15(1) to (4) of the Regulations do not apply to your employment. Unused holiday entitlement may not be carried over from one calendar year to the next without the prior written consent of the Company.
- 6.3. Upon termination of employment, you will receive payment in respect of any days’ holiday which has accrued but has not been taken by the date your employment terminates. A pro-rated sum will be deducted in respect of any days you have taken in excess of your holiday entitlement from your last salary payment. For these purposes a day’s pay is calculated as 1/260 of your annual salary.
- 6.4. During any period of notice (whether given by the Company or by you), no contractual holiday entitlement shall accrue, save that your entitlement to annual leave pursuant to regulation 13 of the Regulations shall continue to accrue during such period.
- 6.5. The Company reserves the right, at its sole discretion, to require you to take or not to take all or part of any outstanding holiday during any notice period or period of Garden Leave.

#### **7. PENSION SCHEME**

- 7.1. The Company shall not be liable to pay or provide any pension to or for your benefit (without prejudice to the Company’s obligation (if any) pursuant to the Welfare Reform and Pensions Act 1999, the Finance Act 2000 and the Stakeholder Pension Schemes Regulations 2000 to facilitate access to a stakeholder pension scheme) and you are encouraged to make your own pension arrangements.

7.2. The Company has not opted to treat your employment as contracted-out employment by reference to an occupational pension scheme and a contracting-out certificate issued in accordance with the Pension Schemes Act 1993 is not in force in respect of your employment.

## **8. ABSENCE AND SICKNESS**

8.1. Any unauthorized absence requires you to notify the CEO (or his designated deputy) by 10.00 a.m. on the first day of any such unauthorized absence. If you are still off work on the third day you must contact the CEO to report on your progress. You must keep the CEO regularly informed of your absence and of the expected duration of your absence. Failure to notify the Company of your absence may render you subject to disciplinary action and may also bar you from receiving sick pay.

8.2. Absence through sickness or injury must be covered by a medical certificate. For the first seven days a self-certificate form (available from Human Resources) must be completed on your return to work and submitted to Human Resources. For illness of more than seven days, a doctor's certificate must be produced on the eighth day and should be submitted regularly for any period of sickness thereafter. On each occasion a medical certificate expires and you do not anticipate returning to work, you must notify the Head of Worldwide Sales on the first working day following the expiry of the medical certificate.

8.3. Provided that you comply with your obligations under this clause 8, the Company may at its absolute discretion make full payment of salary while you are absent for sickness or injury for a maximum period of thirty (30) days in any twelve-month period and for any subsequent such absence in the same calendar year you will receive such pay (if any) as the Company may in its sole discretion deem appropriate. The foregoing is without prejudice to any entitlement to statutory sick pay ("SSP") under the Social Security Contributions and Benefits Act 1992 (for which purpose Monday to Friday (inclusive) in each week shall be qualifying days). Any payment made in respect of a day of sickness shall count towards any entitlement to SSP and any other sickness or other benefit obtainable by you under any social security, national insurance or other legislation for the time being in force or any benefit received by you as a result of contributions paid by the Company to any health insurance scheme. Only SSP will be paid for any period of absence due to sickness during your probationary period and/or your notice period. The Company at all times reserves the right to withhold, discontinue or request repayment of any contractual sick pay:

8.3.1. if it is satisfied that you have misrepresented your state of health or are in any way abusing the sickness scheme; or

8.3.2. if an injury from an accident at work was caused by your misconduct at work; or

8.3.3. if you fail to follow the Company's absence rules; or

8.3.4. if, in the opinion of a doctor nominated by the Company, you are well enough to work; or

8.3.5. if you behave in a manner likely to impede your recovery.

8.4. You agree to be examined by a medical practitioner nominated by the Company on the Company's request, the cost of which will be borne by the Company. You shall authorise the medical practitioner carrying out the examination to disclose to or discuss with the Company and its advisers any matters arising from such examination.

## 9. PERIOD OF NOTICE AND TERMINATION OF EMPLOYMENT

- 9.1. You will be required to give six (6) months notice in writing to terminate your employment. Notwithstanding anything to the contrary set forth herein or in the Stock Purchase Agreement, if you terminate your employment with the Company under this clause 9.1 prior to the expiration of the Earn-Out Term, you acknowledge and agree that neither the Company nor Mandalay Media, Inc. shall be obligated to pay you any portion of any Earn-Out Payment (as defined in the Stock Purchase Agreement) that might otherwise be payable for the Earn-Out Period (and any subsequent Earn-Out Periods) in which you are not fully employed by the Company during such Earn-Out Period.
- 9.2. Should the Company wish to terminate your employment prior to the second anniversary of the Commencement Date, other than for the reasons set out in clause 9.4 below, you will be entitled to receive payments in the amount of your base salary then in effect up to the second anniversary of the Commencement Date, and you shall be entitled to six (6) months notice of such termination.
- 9.3. The Company shall be entitled at its sole discretion at any time to terminate your employment forthwith without notice in accordance with this clause 9.3 and to make a payment of basic salary to you as set forth above in lieu of any notice period and to deduct tax and national insurance from any such payment, provided that if the Company shall decide not to make a payment to you under this clause, you shall not be entitled to enforce the payment as a contractual debt or as liquidated damages and your sole remedy will be in the form of damages in respect of any unexpired period of notice. Where you have received a payment in lieu of notice, you will not be entitled to any additional compensation in respect of holiday which would otherwise have accrued during your notice period. For the avoidance of doubt, you shall be entitled to receive your pro-rata share of any Earn-Out Payment made by Mandalay Media, Inc. unless you terminate your employment with the Company pursuant to clause 9.1.
- 9.4. Notwithstanding the other provisions of this clause 9, your employment may be terminated by the Company by written notice having immediate effect and without notice or payment in lieu of notice or payment of any compensation or liquidated damages if you are guilty of gross misconduct or in any way fundamentally breach your employment contract with the Company. The following are examples of conduct that would entitle the Company to terminate your employment summarily:
- 9.4.1. theft, fraud, intentionally providing false or misleading information or any act of dishonesty;
  - 9.4.2. any act or attempted act of violence or abusive behaviour towards people or property including causing deliberate damage to the Company's property;
  - 9.4.3. indecent behaviour towards or harassment or bullying of fellow employees, suppliers, customers or clients;
  - 9.4.4. incapability through alcohol, non-prescribed drugs or other substances,
  - 9.4.5. wilful and persistent breach of health and safety regulations;
  - 9.4.6. a serious act of insubordination or wilful refusal to carry out reasonable requests;
  - 9.4.7. serious or persistent neglect of duties or a series of persistent breaches of the terms and conditions of your employment, other than a breach which is capable of remedy and is remedied forthwith by you at the Company's request to the reasonable satisfaction of the Company;

- 9.4.8. failure to comply in any material respect with any policy, procedures or rules of any professional or regulatory body governing the business carried out by the Company including, without limitation, any policy in respect of equal opportunities and harassment, data protection and use of email and the internet;
  - 9.4.9. unauthorized use of or disclosure of confidential information;
  - 9.4.10. serious breach of the Company's policies, procedures or rules contained in the Employee Handbook, which may be amended from time to time;
  - 9.4.11. falsifying records or expense claims;
  - 9.4.12. conviction of a criminal offence, other than a minor offence, arising from or related to your work for the Company;
  - 9.4.13. conviction of a criminal offence committed outside working hours which in the opinion of the Company acting reasonably adversely affects the Company's business or reputation, or affects your suitability for the type of work which you perform or affects your acceptability to other employees;
  - 9.4.14. any act of gross misconduct or any other act or omission (whether or not during or in the context of your employment) which, in the opinion of the Company acting reasonably, brings or is likely or calculated to bring the name or reputation of the Company into disrepute or to materially prejudice the interests of the business of the Company;
  - 9.4.15. unauthorized signing of documentation committing the Company to any financial obligation or exceeding your authority in any other way; or
  - 9.4.16. misuse of the Company's computer system or any other Company owned equipment.
- 9.5. The Company shall have the right to suspend you (subject to the continued payment of salary and benefits) pending any investigation into any potential dishonesty, gross misconduct or any other circumstances which may give rise to a right to the Company to terminate your employment for such period as it thinks fit.

## **10. GARDEN LEAVE**

- 10.1. After notice of termination has been given by either party you may be required by the Company in its absolute discretion not to attend at your place of work or other offices of the Company at any time and not to perform any duties for the Company or to perform only such specific duties, projects or tasks as are expressly assigned to you by the Company, in any case for such period and at such place or places (including, without limitation your home) as the Company in its absolute discretion may decide. You will continue to receive your full pay and contractual benefits during any such period. Any period of Garden Leave will not exceed the period of notice the Company is required to give you pursuant to clause 9.2 of this agreement.
- 10.2. During any such period you shall:
- 10.2.1. if requested by the Company resign from any office which you may hold in the Company or which you hold as a nominee of the Company;
  - 10.2.2. notify the Company of any change of address or contact details;

- 10.2.3. if requested by the Company return all of the Company's property which is held by you or is under your control including without limitation all confidential information, documents, software and copies of documents and software;
  - 10.2.4. if requested by the Company, refrain from contacting employees, clients and professional contacts of the Company except where such employees, clients and professional contacts are personal friends of yours and you have contacted them in a social capacity;
  - 10.2.5. if requested by the Company cease to be an authorized signatory of the Company or hold a power of attorney for the Company.
- 10.3. The Company reserves the right to require you to take holiday which is accrued up to the commencement of garden leave and which will accrue to the date your employment terminates during the period of garden leave on such day or days as the Company may specify. No contractual holiday entitlement shall accrue during such period itself, save that your entitlement to annual leave pursuant to regulation 13 of the Regulations shall continue to accrue during such period.
  - 10.4. During any such period referred to in clause 10.1, the Company shall be under no obligation to provide any work for you and you shall continue to be bound by the express and implied duties of your employment including, without limitation, by the duty of fidelity and good faith owed to the Company and, for the avoidance of doubt but without limitation, by the provisions of clause 18.
  - 10.5. During any such period referred to in clause 10.1, the Company shall be entitled to make such reasonable announcements or statements to employees, clients and professional contacts of the Company and other third parties concerning you as may be appropriate.

## **11. CONFIDENTIALITY**

- 11.1. You will not (except in the proper course of your duties) either during or after the termination of your employment, directly or indirectly make use of, communicate or divulge to any person or corporate body and shall use your best endeavours to prevent the publication or disclosure of secret or confidential information including, without limitation, any trade secrets, customer names, customer lists, customer profiles, prospective customer lists, mailing lists, receipts, documentation, computer programs, drawings, designs, information regarding product development, existing projects, marketing plans, sales plans, information relating to the Company's strategy, plans, or employees, manufacturing, marketing and/or distribution systems plans, management organization information (including data and other information relating to members of the Board and management), operating policies or manuals, business plans, financial records or other financial, commercial, business or technical information relating to the Company or any of its subsidiaries or affiliates or information designated as confidential or proprietary that the Company or any of its subsidiaries or affiliates may receive belonging to suppliers, customers or others who do business with the Company or any of its subsidiaries or affiliates (collectively, "Confidential Information") unless such Confidential Information has been previously disclosed to the public by the Company or has otherwise become available to the public (other than by reason of Employee's breach of this clause 11.1).
- 11.2. If your job involves the handling of personal data on employees, it is a further condition that you must not reveal any of it to others, whether employees or not, without proper authorisation from the CEO.
- 11.3. A breach of the above may result in disciplinary action.

- 11.4. For the avoidance of doubt, the termination of this contract or variation of any of its terms or conditions for any reason shall not affect the obligations of confidentiality set out above, except that they shall cease to apply to any information or knowledge which may subsequently come into the public domain other than by way of unauthorised disclosure in breach of the above obligations.
- 11.5. All programmes and information about the Company's affairs held on a computer owned by you shall be deleted on the termination of your employment and if requested by the Company you will make the computer available for inspection by the Company to ensure that this has been effectively carried out.

**12. RETURN OF COMPANY'S PROPERTY AND REPAYMENT OF SUMS DUE TO THE COMPANY**

On the termination of your employment for whatever reason, or at any time on the request of the Company, you must immediately return to the Company in accordance with its instructions all equipment, Confidential Information, correspondence, records plans, statistics, specifications, magnetic disks, tapes or other software storage media, models, notes, papers, reports and other documents and any copies thereof and any other property belonging to the Company whether in hard copy or in electronic or machine readable form (including but not limited to Company car, keys, credit and charge cards and passes which may be in your possession or under your control. All programmes and information about the Company's affairs held on a computer owned by you shall be deleted on the termination of your employment and if requested by the Company you will make the computer available for inspection to the Company to ensure that this has been effectively carried out. You will provide details of any password used by you to access the computer system or PC of any member of the Company and will not retain any copies thereof. If you have a loan you will be required to repay it in full before your employment ends. If you owe any money to the Company then the Company has the right to deduct such sums from any payment due to you. This is without prejudice to the Company's other remedies to recover any sums due from you to the Company. No outstanding payments will be made to you until the requirements in this clause are met. You will, if so required by the Company, confirm in writing that you have complied with your obligations under this clause.



### 13. RESTRICTIVE COVENANTS

13.1. In this clause the words and expressions set out below shall have the following meanings:

- “Customer” means any person, firm or company who was at any time during the Relevant Period a customer or client of the Company or any Relevant Group Company and with or for whom you or any person reporting to you had dealings, was responsible or acted or in respect of whom you had access to Confidential Information during the Relevant Period (other than at a de minimis level);
- “Effective Date” means the Termination Date or (if earlier) the date on which you commence Garden Leave;
- “Group Company” means any holding company for the time being of the Company or any subsidiary for the time being of the Company or any such holding company (for which purpose “holding company” and “subsidiary” shall have the meaning set out in section 736, Companies Act 1985 as amended);
- “Key Employee” means any person who was an employee, director or consultant employed or engaged by the Company or any Relevant Group Company at the Effective Date or at any time in the Relevant Period and in each case who worked or provided services in an executive or senior managerial capacity and with or for whom you or any person reporting directly to you dealt personally (other than at a de minimis level) or had material involvement with or in respect of whom you had access to Confidential Information, during the Relevant Period.;
- “Minority Investor” means a person who is the beneficial owner of shares or other securities of any company whose shares are quoted on any Recognised Investment Exchange which when aggregated with shares or other securities beneficially owned by his or her spouse, children, step children, parents and parents’ children total no more than one per cent. of any single class of shares or other securities in such company;
- “Prospective Customer” means any person, firm or company who was at any time during the period of 6 months immediately preceding the Effective Date in negotiations with the Company or any Relevant Group Company with a view to such person, firm or company dealing with the Company or any Relevant Group Company as a customer or client and with or for whom you or any person reporting directly to you had dealings, was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information during the said period;

“Prospective Supplier”	means any person, firm or company who was at any time during the period of 6 months immediately preceding the Effective Date in negotiations with the Company or any Relevant Group Company with a view to such person, firm or company dealing with the Company or any Relevant Group Company as a supplier of goods or services and with or for whom you or any person reporting to you had dealings, was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information during the said period.
“Recognised Investment Exchange”	has the meaning given to it in section 285, Financial Services and Markets Act 2000;
“Relevant Capacity”	means either alone or jointly with another or others, whether as principal, agent, consultant, director, partner, shareholder, independent contractor, employee or in any other capacity, whether directly or indirectly through any other person, firm or company, and whether for your own benefit or that of others;
“Relevant Group Company”	means any Group Company to which you have rendered services or which you had management or operational responsibility during the course of your employment at any time during the Relevant Period;
“Relevant Period”	means the twelve-month period ending with the Effective Date;
“Restricted Area”	means England and such other countries in which the Company or any Relevant Group Company carried on any Restricted Business at the Effective Date;
“Restricted Business”	means the business of providing targeted branded mobile phone content services and mobile and voice chat and community services direct to customers and offering an adult television channel;
“Supplier”	means any person, firm or company who at any time during the Relevant period was a supplier of goods or services to the Company or any Relevant Group Company and with or for whom you or any person reporting directly to you had dealings, was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information, during the Relevant Period.

- 13.2. You shall not in a Relevant Capacity (save as a Minority Investor or with the express written consent of the Board):
- 13.2.1. for the period of 9 months from the Effective Date take any steps preparatory to or be engaged or concerned or interested in or carry on any business within the Restricted Area which competes with (or will within such period compete with) the Restricted Business;
  - 13.2.2. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or endeavour to entice away from the Company or any Relevant Group Company the custom or business of any Customer;
  - 13.2.3. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or endeavour to entice away from the Company or any other Group Company the custom or business of any Prospective Customer;
  - 13.2.4. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with or act for or provide services to any Customer;
  - 13.2.5. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with or act for or provide services to any Prospective Customer;
  - 13.2.6. for the period of 12 months from the Effective Date solicit or endeavour to entice away from the Company or any Relevant Group Company or offer employment to any Key Employee, or do any act which may encourage any Key Employee to terminate his employment, appointment or contract with the Company or any Relevant Group Company;
  - 13.2.7. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or seek to disrupt, or endeavour to entice away from the Company or any Relevant Group Company the goods or services provided to the Company or any Relevant Group Company by any Supplier;
  - 13.2.8. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or seek to disrupt, or endeavour to entice away from the Company or any Relevant Group Company the goods or services provided to the Company or any Relevant Group Company by any Prospective Supplier;
  - 13.2.9. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with any Supplier;

- 13.2.10. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with any Prospective Supplier; or
- 13.2.11. for the period of 12 months from the Effective Date do or say anything likely or calculated to lead any person, firm or company to cease or not to offer to the Company or any other Group Company any rights of purchase, sale or agency; or
- 13.2.12. encourage, assist or procure any other person, firm, company or other organisation to do anything which, if done by you, would be a breach of any of your obligations under clauses 13.2.1 to 13.2.11 above.
- 13.3. You shall not at any time (whether during the employment or thereafter) use any name (whether as part of a corporate name or otherwise) which is used by the Company or any other Group Company at the Termination Date or any other name which is likely to cause confusion with any such name in the minds of members of the public.
- 13.4. You shall not at any time after the Termination Date represent yourself as being employed by or otherwise connected with the Company or any other Group Company.
- 13.5. You shall at the request of the Company enter into a direct agreement or undertaking with any other Group Company by which you will accept restrictions corresponding to the restrictions contained in this clause.
- 13.6. You acknowledge that the provisions of this clause constitute severable undertakings given for the benefit of the Company and all other Group Companies and may be enforced by the Company on its own behalf or on behalf of any other Group Company.
- 13.7. Before accepting any employment, appointment or engagement with any third party either during your employment or at any time during the period of 6 months after the Termination Date you shall draw the provisions of this clause to the attention of such third party.
- 13.8. Each of the restrictions contained at clauses 13.2 to 13.4 constitutes a n entirely separate and independent restriction and is considered by the parties each of whom has taken independent legal advice to be reasonable and necessary for the protection of the legitimate interests of the Company and Group but if any such restriction or part thereof shall be found void, invalid, illegal or unenforceable by any court of competent jurisdiction but would be valid if some words were deleted therefrom, or the period thereof reduced, or area covered or range of activities reduced, such restriction shall apply with such modification as may be necessary to make it valid and effective.
- 13.9. In the event of any clause contained in this Agreement or any part thereof being declared invalid or unenforceable by any court of competent jurisdiction, all other clauses or parts thereof contained in this Agreement shall remain in full force and effect and shall not be affected thereby.

#### **14. DISCIPLINARY PROCEDURE AND GRIEVANCE PROCEDURES**

The Company's Disciplinary Procedure and Grievance Procedure are available from the Company. This sets out the guidelines for dealing with disciplinary and grievance issues. However, these procedures will not form part of your contract of employment.

## **15. SAFEGUARDING INFORMATION AND COMMUNICATION SYSTEMS**

- 15.1. The Company regards the integrity of its computer system as central to the success of the business. Its policy is to take any measures it considers necessary to ensure that all aspects of the system are fully protected.
- 15.2. Misuse of the computer is a serious disciplinary offence. The following are examples of misuse:
- 15.2.1. fraud and theft;
  - 15.2.2. system sabotage;
  - 15.2.3. introduction of viruses and time bombs;
  - 15.2.4. using unauthorized software;
  - 15.2.5. obtaining unauthorised access;
  - 15.2.6. using the system for private work or game playing;
  - 15.2.7. breaches of the Data Protection Act;
  - 15.2.8. sending abusive, rude, discriminatory or defamatory messages via electronic mail; and
  - 15.2.9. hacking.
- 15.3. This list is not exhaustive. Depending on the circumstances of each case, misuse of the computer system is likely to be considered a gross misconduct offence, punishable by dismissal. Misuse amounting to criminal conduct will be reported to the police. You agree to indemnify the Company during and after your employment against all liability resulting from your breach of this clause.
- 15.4. If you suspect that a fellow employee is abusing the computer system should raise the matter with the CEO.
- 15.5. Company communication systems, which include telephone, fax, electronic mail and the Internet, must be used only for legitimate business purposes. It is accepted that you may from time to time need to make some personal use of these facilities but this and any form of non-business use of these facilities must be kept to a minimum. Personal use of Company facilities will be acceptable only provided that the frequency and duration of such usage does not interfere with the performance of your duties. The cost incurred through the personal use of Company and Group Company facilities may be re-charged to you and deducted from your salary at the Company's discretion. The Company reserves the right to monitor all e-mail/internet activity by you for the purposes of ensuring compliance with the Company's policies and procedures and of ensuring compliance with relevant regulatory requirements and you hereby consent to such monitoring.

## **16. INTELLECTUAL PROPERTY**

- 16.1. You acknowledge that because of the nature of your duties and the particular responsibilities arising as a result of such duties that you owe to the Company, you have a special obligation to further the interests of the Company.
- 16.2. You shall promptly disclose to the Company any idea or invention created in the manner prescribed by sections 39(1) and 39(2) of the Patents Act 1977. Any such inventions will then be dealt with in accordance with the provisions expressed in that Act.

- 16.3. You acknowledge that all trade marks, registered designs, design rights, copyright, database rights and other intellectual property rights (together, where registerable with the right to apply for registration of the same, aside from those described in clause 18.2), whether in existence now or coming into existence at any time in the future, will, on creation either during the normal course of employment or by using materials, tools or knowledge made available through your employment, vest in and be the exclusive property of the Company or any of Group Company which the Company shall nominate and if required to do so (whether during or after the termination of your employment), you shall execute all instruments and do all things necessary to vest ownership in the above rights in the Company as sole beneficial owner. Where the same does not automatically vest by Act of Parliament, you shall immediately assign the same to the Company. You irrevocably waive all your rights pursuant to sections 77 to 83 inclusive of the Copyright Designs and Patents Act 1988 and any statutory amendment thereto.
- 16.4. You appoint the Company to be your attorney in your name and on your behalf to execute any such instrument or do any such thing necessary for the purpose of giving to the Company or its nominee, the full benefit of the provisions of this clause 18 and acknowledge in favour of any third party that a certificate in writing signed by any director or secretary of the Company, that any instrument or act falls within the authority conferred shall be conclusive evidence that such is the case.

## **17. WHOLE AGREEMENT**

- 17.1. This letter constitutes the whole agreement between the parties. All other agreements (if any) for service between the Company and you are hereby abrogated and superseded and any sum or sums paid to you by way of remuneration under any such other agreements after the commencement of the employment shall be deemed to have been received by you on account of the remuneration payable to you under this letter. You have not been induced to enter into an agreement in the form of this letter in reliance on, nor have you been given any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as are expressly set out in this letter and, to the extent that any of them have been, you unconditionally and irrevocably waive any claims, rights or remedies which you might otherwise have had in relation thereto.
- 17.2. There is no collective agreement which directly affects the terms and conditions of employment contained in this letter.

## **18. RETIREMENT**

Your normal retirement age will be 65.

## **19. EXCLUSIVITY OF SERVICE**

- 19.1. Unless prevented by ill health and except during holiday taken in accordance with clause 6 you are required to devote your full working time, attention and abilities to your job duties during working hours and to act in the best interests of the Company at all times.
- 19.2. You must not during your employment (including, without limitation, any period of garden leave) without the written consent of the Company carry on or be or plan or attempt to be in any way directly or indirectly engaged, concerned or interested in any other business or undertaking (whether alone or on your own behalf or on behalf of or in association or in conjunction with any other person and whether as an employee or in any other capacity) where this is or is likely to compete with, or be in conflict with, the business of the Company or where this may affect the efficient discharge of your duties. You must therefore notify the Head of Worldwide Sales if you wish to enter into any other employment or acquire any other business interest during the course of your employment.

## **20. POLICIES AND PROCEDURES**

You agree to comply with the rules, policies and procedures of the Company in force from time to time.

## **21. DATA PROTECTION**

- 21.1. You hereby explicitly consent to the processing of personal data, (including any sensitive personal data, held or obtained or collected by the Company in relation to your employment) and the transfer of this data outside the EEA for the operation, administration or security arrangements and legitimate interests of the Company and in order to fulfil the Company's obligations to you.
- 21.2. You agree to fully observe and perform the obligations imposed on individuals contained in the Data Protection Act 1998 ("the Act") and any codes of practice or guidance issued under the Act and the Company's data protection policy in force from time to time in relation to any personal data including sensitive personal data that may come into your possession whilst employed by the Company. Breach of this clause may constitute a disciplinary offence.
- 21.3. The Company may from time to time need to make your records available to its professional advisers, including its lawyers, accountants or auditors and to legal and regulatory authorities, such as the Inland Revenue or the FSA, and to other parties which provide products or services to the Company, such as its pension administrators.
- 21.4. You should immediately notify Human Resources in writing of any changes to your personal details. Such changes may include but are not limited to:
- 21.4.1. your name, change of address or telephone number;
  - 21.4.2. date of marriage, divorce or births in your immediate family;
  - 21.4.3. examination passes;
  - 21.4.4. change of life assurance beneficiary;
  - 21.4.5. change of address, telephone number, etc. of next of kin or emergency contact;
  - 21.4.6. bank details;
  - 21.4.7. arrest, prosecution or conviction for a criminal offence;
  - 21.4.8. any disciplinary action taken against you by a professional or regulatory body or if you become bankrupt, apply for or have made against you a receiving order, make any composition with your creditors or commit any act of bankruptcy.

## **22. EQUAL OPPORTUNITIES POLICY**

The Company has an equal opportunities policy which will be given to you on joining. You will take the benefit of this policy, but you are also required to observe its terms (although these do not form part of your contract of employment).

**23. AMENDMENTS AND WAIVERS**

- 23.1. No amendment to the provisions of this letter shall be effective unless in writing and signed by both parties hereto or their duly authorized representatives.
- 23.2. All rights, remedies and powers conferred upon the parties hereto are cumulative and shall not be deemed or construed to be exclusive of any other rights, remedies or powers now or hereafter conferred upon the parties hereto or either of them by law or otherwise.
- 23.3. Any failure at any time to insist upon or enforce any such right, remedy or power shall not be construed as a waiver thereof.

**24. WARRANTY AND UNDERTAKING**

- 24.1. You represent and warrant that you are not a party to any agreement, contract (whether of employment or otherwise) or understanding, which requires you to preserve the confidentiality of any information, client lists, trade secrets or other confidential information or which would in any way restrict or prohibit him from or conflict with or be breached by your undertaking or performing any of the duties of the employment in accordance with the terms and conditions of this Agreement.
- 24.2. You undertake that forthwith upon receiving from any person, firm or company an offer of employment, agency, consultancy, partnership or joint venture, or an approach which may result in such an offer being received, during the employment or whilst any of the restrictions in this Agreement continue in force you will forthwith notify the Company and provide the person, firm or company making the offer with a full and accurate copy of this Agreement.

**25. NOTICES**

Any notice required or desired to be delivered under this Agreement shall be in writing and shall be delivered personally, by courier service, by registered mail, return receipt requested, or by telecopy and shall be effective upon actual receipt when delivered or sent by telecopy and upon mailing when sent by registered mail, and shall be addressed as follows (or to such other address as the party entitled to notice shall hereafter designate in accordance with the terms hereof):

If to the Company:

AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

If to Employee:

Nathaniel MacLeitch  
AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

**26. POST-TERMINATION PROVISIONS**

Any provision of this letter which contemplates or is capable of operation after the termination of the employment shall apply notwithstanding termination of the employment for whatever reason including, without limitation, an unlawful termination by the Company.



**27. GOVERNING LAW**

27.1. This letter shall be governed by and construed in all respects in accordance with the laws of England.

27.2. Each of the parties hereto hereby irrevocably submits to the exclusive jurisdiction of the English Courts.

We hope you find this offer acceptable. Please confirm your agreement to these terms of employment by signing the enclosed copy of this document and returning it to the Company's General Counsel.

Yours sincerely

On behalf of the Company

By: /s/ James Lefkowitz

Name: James Lefkowitz

Title: Director

Personal ID Number: \_\_\_\_\_

I confirm my agreement to the above terms of employment.

By: /s/ Nathaniel MacLeitch

Name: Nathaniel MacLeitch

Personal ID Number: \_\_\_\_\_

October 23, 2008

Jonathan Cresswell (a/k/a Jack Cresswell)  
AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

Re: Employment Agreement

Dear Mr. Cresswell,

I am writing to set out the terms of your employment with AMV Holding Limited (the "Company").

**IT IS AGREED** as follows:

**1. JOB TITLE, DUTIES AND CONDUCT**

- 1.1. You are employed as a joint managing director of the Company and you shall serve the Company in this, or an equivalent position, and in such other position or positions with the Company and its subsidiaries and affiliates consistent with your position as a joint managing director of the Company and shall perform such duties as the Chief Executive Officer of Twistbox Entertainment, Inc. (the "CEO") or the Board of Directors of Mandalay Media, Inc. shall reasonably assign you from time to time. You shall report directly to the CEO or such other person as the Company shall determine from time to time.
- 1.2. You shall devote substantially all of your business time and attention to the services required of you hereunder, and shall perform such services in a manner consistent with the duties of your position, provided the foregoing shall not prevent you from (i) serving on the board of directors of non-profit organizations and, with the prior written approval of the Board, other companies, (ii) participating in charitable, civic, educational, professional, community or industry affairs and (iii) managing your and your family's passive personal investments; provided such activities in the aggregate do not interfere or conflict with your duties hereunder or create a potential business conflict. You shall be subject to the terms and conditions of any applicable policy of the Company regarding service on behalf of any other organization.
- 1.3. During the Employment, you shall not become associated with any entity, whether as a principal, partner, employee, director, consultant, joint venturer, lender, investor, individual proprietor, shareholder or otherwise (other than as a holder of not in excess of 2% of the outstanding voting shares of any publicly held company), that is actively engaged or preparing to be actively engaged in any geographic area in any business which is in competition with a business conducted by the Company or any of its subsidiaries or affiliates at the time of the alleged competition. During the Employment, you shall not engage in any activity or activities preparatory to competing with the Company.

**2. DATE OF COMMENCEMENT**

Your employment with the Company will commence as of the date hereof (the "Commencement Date") and shall be subject to earlier termination in accordance with its terms.

No previous employment with a previous employer counts as part of your period of continuous employment which commenced on the Commencement Date.

### **3. COMPENSATION**

- 3.1. Your base salary during the first Earn-Out Period (as defined in the Stock Purchase Agreement, by and among Mandalay Media, Inc., Nathaniel MacLeitch, Jack Cresswell and the shareholders of the Company signatories thereto, dated as of October 8, 2008 (the "Stock Purchase Agreement"), which will accrue from day to day, will be at the rate of £60,000 per annum payable monthly in arrears direct into your bank account on or before the last day of each calendar month. Where this falls on a weekend or public holiday, payment will be made on the last working day before that day. Within ten (10) days of the beginning of the second Earn-Out Period and the third Earn-Out Period, as applicable, you may provide the Company with a notice setting forth the base salary you wish to receive for such period, which shall be no greater than £100,000 per annum. In the event that you fail to provide the Company with such a notice within such ten day period, your base salary for such period shall be £60,000 per annum. After the expiration of the Earn-Out Term (as defined in the Stock Purchase Agreement), your base salary will be reviewed on an annual basis in March of each year. There is no obligation on the Company to increase the level of your base salary at a review. An increase awarded in one year will not influence or set a precedent in relation to future years.
- 3.2. Following the expiration of the Earn-Out Term, you may then be eligible to receive a performance/merit bonus as determined by Company's Board based upon several factors including the profitability of the Company, your performance and the achievement of the goals set by the Company's Board during each fiscal year. Any bonus paid to you is entirely discretionary and there is no contractual entitlement to receive it nor shall it be deemed to become part of your contractual remuneration or salary for pension purposes or otherwise. In the event your employment is terminated or you are under notice of termination prior to the payment date (whether such notice is given by the Company or you) you will forfeit all and any rights and entitlements to a bonus and will not have any rights against the Company in respect of the loss of such entitlement. The Company reserves in its absolute discretion the right to terminate or amend any bonus scheme without notice to you. Receipt of a discretionary bonus one year creates neither right to nor expectation of any bonus in the next year.
- 3.3. You authorise the Company at any time during your employment, or in any event on the termination of your employment, howsoever arising, to deduct from your salary and from any other sums reimbursable to you by the Company, any monies from time to time due from you to the Company including, but not limited to any outstanding loans, advances, payment for excess holiday, overpayment of wages and any other monies owed by you to the Company.
- 3.4. You shall be entitled to participate in all bonus and benefit programs that the Company establishes and makes available to its executive employees, if any, to the extent that your position, tenure, salary, age, health and other qualifications make you eligible to participate, including, but not limited to, health care plans, life insurance plans, disability insurance, retirement plans, and all other benefit plans from time to time in effect. The Company shall pay for your participation in the health care plan that it currently has in place. The Company shall also reimburse you up to £500 per month for the lease of an automobile to be used in connection with your employment with the Company.

#### **4. LOCATION**

Your principal place of work at the date of this letter is 65 High Street Marlow Bucks SL7 1AB, United Kingdom. You may also be required to travel within the UK and abroad in the course of your duties from time to time at the reasonable discretion of the Company.

#### **5. HOURS OF WORK**

- 5.1. Your normal hours of work are from 8:00 a.m. to 5:00 p.m. or 9.00 a.m. to 6.00 p.m. Monday through Friday, inclusive. You are entitled to a one (1) hour lunch break. You may be required to work additional hours either, as and when requested by the Company, or when the proper performance of your work requires. You will not be entitled to be paid extra remuneration for any such additional hours worked in excess of your basic weekly hours.
- 5.2. You agree that the limit in regulation 4(1), Working Time Regulations 1998 (“the Regulations”) does not apply during your employment and that if necessary for the proper performance of your duties you will work more than an average of 48 hours in each seven day period (as defined by and calculated in accordance with the Regulations). You can withdraw your agreement to the terms of this clause by giving to the Company three months’ written notice.

#### **6. HOLIDAY ENTITLEMENT**

- 6.1. Your annual holiday entitlement is twenty-five (25) days in the Company’s holiday year which runs from January to December, plus Bank Holidays in England and Wales. Your entitlement for a part year will be pro-rated according to your annual entitlement. You are entitled to your full remuneration and benefits during days taken as holiday.
- 6.2. You are required to give at least two weeks’ notice of a proposed holiday. No more than 10 consecutive days’ holiday (plus weekends falling in between) may be taken at any one time. The provisions of regulations 15(1) to (4) of the Regulations do not apply to your employment. Unused holiday entitlement may not be carried over from one calendar year to the next without the prior written consent of the Company.
- 6.3. Upon termination of employment, you will receive payment in respect of any days’ holiday which has accrued but has not been taken by the date your employment terminates. A pro-rated sum will be deducted in respect of any days you have taken in excess of your holiday entitlement from your last salary payment. For these purposes a day’s pay is calculated as 1/260 of your annual salary.
- 6.4. During any period of notice (whether given by the Company or by you), no contractual holiday entitlement shall accrue, save that your entitlement to annual leave pursuant to regulation 13 of the Regulations shall continue to accrue during such period.
- 6.5. The Company reserves the right, at its sole discretion, to require you to take or not to take all or part of any outstanding holiday during any notice period or period of Garden Leave.

#### **7. PENSION SCHEME**

- 7.1. The Company shall not be liable to pay or provide any pension to or for your benefit (without prejudice to the Company’s obligation (if any) pursuant to the Welfare Reform and Pensions Act 1999, the Finance Act 2000 and the Stakeholder Pension Schemes Regulations 2000 to facilitate access to a stakeholder pension scheme) and you are encouraged to make your own pension arrangements.

7.2. The Company has not opted to treat your employment as contracted-out employment by reference to an occupational pension scheme and a contracting-out certificate issued in accordance with the Pension Schemes Act 1993 is not in force in respect of your employment.

## **8. ABSENCE AND SICKNESS**

8.1. Any unauthorized absence requires you to notify the CEO (or his designated deputy) by 10.00 a.m. on the first day of any such unauthorized absence. If you are still off work on the third day you must contact the CEO to report on your progress. You must keep the CEO regularly informed of your absence and of the expected duration of your absence. Failure to notify the Company of your absence may render you subject to disciplinary action and may also bar you from receiving sick pay.

8.2. Absence through sickness or injury must be covered by a medical certificate. For the first seven days a self-certificate form (available from Human Resources) must be completed on your return to work and submitted to Human Resources. For illness of more than seven days, a doctor's certificate must be produced on the eighth day and should be submitted regularly for any period of sickness thereafter. On each occasion a medical certificate expires and you do not anticipate returning to work, you must notify the Head of Worldwide Sales on the first working day following the expiry of the medical certificate.

8.3. Provided that you comply with your obligations under this clause 8, the Company may at its absolute discretion make full payment of salary while you are absent for sickness or injury for a maximum period of thirty (30) days in any twelve-month period and for any subsequent such absence in the same calendar year you will receive such pay (if any) as the Company may in its sole discretion deem appropriate. The foregoing is without prejudice to any entitlement to statutory sick pay ("SSP") under the Social Security Contributions and Benefits Act 1992 (for which purpose Monday to Friday (inclusive) in each week shall be qualifying days). Any payment made in respect of a day of sickness shall count towards any entitlement to SSP and any other sickness or other benefit obtainable by you under any social security, national insurance or other legislation for the time being in force or any benefit received by you as a result of contributions paid by the Company to any health insurance scheme. Only SSP will be paid for any period of absence due to sickness during your probationary period and/or your notice period. The Company at all times reserves the right to withhold, discontinue or request repayment of any contractual sick pay:

8.3.1. if it is satisfied that you have misrepresented your state of health or are in any way abusing the sickness scheme; or

8.3.2. if an injury from an accident at work was caused by your misconduct at work; or

8.3.3. if you fail to follow the Company's absence rules; or

8.3.4. if, in the opinion of a doctor nominated by the Company, you are well enough to work; or

8.3.5. if you behave in a manner likely to impede your recovery.

8.4. You agree to be examined by a medical practitioner nominated by the Company on the Company's request, the cost of which will be borne by the Company. You shall authorise the medical practitioner carrying out the examination to disclose to or discuss with the Company and its advisers any matters arising from such examination.

## 9. PERIOD OF NOTICE AND TERMINATION OF EMPLOYMENT

- 9.1. You will be required to give six (6) months notice in writing to terminate your employment. Notwithstanding anything to the contrary set forth herein or in the Stock Purchase Agreement, if you terminate your employment with the Company under this clause 9.1 prior to the expiration of the Earn-Out Term, you acknowledge and agree that neither the Company nor Mandalay Media, Inc. shall be obligated to pay you any portion of any Earn-Out Payment (as defined in the Stock Purchase Agreement) that might otherwise be payable for the Earn-Out Period (and any subsequent Earn-Out Periods) in which you are not fully employed by the Company during such Earn-Out Period.
- 9.2. Should the Company wish to terminate your employment prior to the second anniversary of the Commencement Date, other than for the reasons set out in clause 9.4 below, you will be entitled to receive payments in the amount of your base salary then in effect up to the second anniversary of the Commencement Date, and you shall be entitled to six (6) months notice of such termination.
- 9.3. The Company shall be entitled at its sole discretion at any time to terminate your employment forthwith without notice in accordance with this clause 9.3 and to make a payment of basic salary to you as set forth above in lieu of any notice period and to deduct tax and national insurance from any such payment, provided that if the Company shall decide not to make a payment to you under this clause, you shall not be entitled to enforce the payment as a contractual debt or as liquidated damages and your sole remedy will be in the form of damages in respect of any unexpired period of notice. Where you have received a payment in lieu of notice, you will not be entitled to any additional compensation in respect of holiday which would otherwise have accrued during your notice period. For the avoidance of doubt, you shall be entitled to receive your pro-rata share of any Earn-Out Payment made by Mandalay Media, Inc. unless you terminate your employment with the Company pursuant to clause 9.1.
- 9.4. Notwithstanding the other provisions of this clause 9, your employment may be terminated by the Company by written notice having immediate effect and without notice or payment in lieu of notice or payment of any compensation or liquidated damages if you are guilty of gross misconduct or in any way fundamentally breach your employment contract with the Company. The following are examples of conduct that would entitle the Company to terminate your employment summarily:
- 9.4.1. theft, fraud, intentionally providing false or misleading information or any act of dishonesty;
  - 9.4.2. any act or attempted act of violence or abusive behaviour towards people or property including causing deliberate damage to the Company's property;
  - 9.4.3. indecent behaviour towards or harassment or bullying of fellow employees, suppliers, customers or clients;
  - 9.4.4. incapability through alcohol, non-prescribed drugs or other substances,
  - 9.4.5. wilful and persistent breach of health and safety regulations;
  - 9.4.6. a serious act of insubordination or wilful refusal to carry out reasonable requests;
  - 9.4.7. serious or persistent neglect of duties or a series of persistent breaches of the terms and conditions of your employment, other than a breach which is capable of remedy and is remedied forthwith by you at the Company's request to the reasonable satisfaction of the Company;

- 9.4.8. failure to comply in any material respect with any policy, procedures or rules of any professional or regulatory body governing the business carried out by the Company including, without limitation, any policy in respect of equal opportunities and harassment, data protection and use of email and the internet;
  - 9.4.9. unauthorized use of or disclosure of confidential information;
  - 9.4.10. serious breach of the Company's policies, procedures or rules contained in the Employee Handbook, which may be amended from time to time;
  - 9.4.11. falsifying records or expense claims;
  - 9.4.12. conviction of a criminal offence, other than a minor offence, arising from or related to your work for the Company;
  - 9.4.13. conviction of a criminal offence committed outside working hours which in the opinion of the Company acting reasonably adversely affects the Company's business or reputation, or affects your suitability for the type of work which you perform or affects your acceptability to other employees;
  - 9.4.14. any act of gross misconduct or any other act or omission (whether or not during or in the context of your employment) which, in the opinion of the Company acting reasonably, brings or is likely or calculated to bring the name or reputation of the Company into disrepute or to materially prejudice the interests of the business of the Company;
  - 9.4.15. unauthorized signing of documentation committing the Company to any financial obligation or exceeding your authority in any other way; or
  - 9.4.16. misuse of the Company's computer system or any other Company owned equipment.
- 9.5. The Company shall have the right to suspend you (subject to the continued payment of salary and benefits) pending any investigation into any potential dishonesty, gross misconduct or any other circumstances which may give rise to a right to the Company to terminate your employment for such period as it thinks fit.

## **10. GARDEN LEAVE**

- 10.1. After notice of termination has been given by either party you may be required by the Company in its absolute discretion not to attend at your place of work or other offices of the Company at any time and not to perform any duties for the Company or to perform only such specific duties, projects or tasks as are expressly assigned to you by the Company, in any case for such period and at such place or places (including, without limitation your home) as the Company in its absolute discretion may decide. You will continue to receive your full pay and contractual benefits during any such period. Any period of Garden Leave will not exceed the period of notice the Company is required to give you pursuant to clause 9.2 of this agreement.
- 10.2. During any such period you shall:
- 10.2.1. if requested by the Company resign from any office which you may hold in the Company or which you hold as a nominee of the Company;
  - 10.2.2. notify the Company of any change of address or contact details;

- 10.2.3. if requested by the Company return all of the Company's property which is held by you or is under your control including without limitation all confidential information, documents, software and copies of documents and software;
  - 10.2.4. if requested by the Company, refrain from contacting employees, clients and professional contacts of the Company except where such employees, clients and professional contacts are personal friends of yours and you have contacted them in a social capacity;
  - 10.2.5. if requested by the Company cease to be an authorized signatory of the Company or hold a power of attorney for the Company.
- 10.3. The Company reserves the right to require you to take holiday which is accrued up to the commencement of garden leave and which will accrue to the date your employment terminates during the period of garden leave on such day or days as the Company may specify. No contractual holiday entitlement shall accrue during such period itself, save that your entitlement to annual leave pursuant to regulation 13 of the Regulations shall continue to accrue during such period.
  - 10.4. During any such period referred to in clause 10.1, the Company shall be under no obligation to provide any work for you and you shall continue to be bound by the express and implied duties of your employment including, without limitation, by the duty of fidelity and good faith owed to the Company and, for the avoidance of doubt but without limitation, by the provisions of clause 18.
  - 10.5. During any such period referred to in clause 10.1, the Company shall be entitled to make such reasonable announcements or statements to employees, clients and professional contacts of the Company and other third parties concerning you as may be appropriate.

## **11. CONFIDENTIALITY**

- 11.1. You will not (except in the proper course of your duties) either during or after the termination of your employment, directly or indirectly make use of, communicate or divulge to any person or corporate body and shall use your best endeavours to prevent the publication or disclosure of secret or confidential information including, without limitation, any trade secrets, customer names, customer lists, customer profiles, prospective customer lists, mailing lists, receipts, documentation, computer programs, drawings, designs, information regarding product development, existing projects, marketing plans, sales plans, information relating to the Company's strategy, plans, or employees, manufacturing, marketing and/or distribution systems plans, management organization information (including data and other information relating to members of the Board and management), operating policies or manuals, business plans, financial records or other financial, commercial, business or technical information relating to the Company or any of its subsidiaries or affiliates or information designated as confidential or proprietary that the Company or any of its subsidiaries or affiliates may receive belonging to suppliers, customers or others who do business with the Company or any of its subsidiaries or affiliates (collectively, "Confidential Information") unless such Confidential Information has been previously disclosed to the public by the Company or has otherwise become available to the public (other than by reason of Employee's breach of this clause 11.1).
- 11.2. If your job involves the handling of personal data on employees, it is a further condition that you must not reveal any of it to others, whether employees or not, without proper authorisation from the CEO.
- 11.3. A breach of the above may result in disciplinary action.



- 11.4. For the avoidance of doubt, the termination of this contract or variation of any of its terms or conditions for any reason shall not affect the obligations of confidentiality set out above, except that they shall cease to apply to any information or knowledge which may subsequently come into the public domain other than by way of unauthorised disclosure in breach of the above obligations.
- 11.5. All programmes and information about the Company's affairs held on a computer owned by you shall be deleted on the termination of your employment and if requested by the Company you will make the computer available for inspection by the Company to ensure that this has been effectively carried out.

**12. RETURN OF COMPANY'S PROPERTY AND REPAYMENT OF SUMS DUE TO THE COMPANY**

On the termination of your employment for whatever reason, or at any time on the request of the Company, you must immediately return to the Company in accordance with its instructions all equipment, Confidential Information, correspondence, records plans, statistics, specifications, magnetic disks, tapes or other software storage media, models, notes, papers, reports and other documents and any copies thereof and any other property belonging to the Company whether in hard copy or in electronic or machine readable form (including but not limited to Company car, keys, credit and charge cards and passes which may be in your possession or under your control. All programmes and information about the Company's affairs held on a computer owned by you shall be deleted on the termination of your employment and if requested by the Company you will make the computer available for inspection to the Company to ensure that this has been effectively carried out. You will provide details of any password used by you to access the computer system or PC of any member of the Company and will not retain any copies thereof. If you have a loan you will be required to repay it in full before your employment ends. If you owe any money to the Company then the Company has the right to deduct such sums from any payment due to you. This is without prejudice to the Company's other remedies to recover any sums due from you to the Company. No outstanding payments will be made to you until the requirements in this clause are met. You will, if so required by the Company, confirm in writing that you have complied with your obligations under this clause.

### 13. RESTRICTIVE COVENANTS

13.1. In this clause the words and expressions set out below shall have the following meanings:

“Customer”	means any person, firm or company who was at any time during the Relevant Period a customer or client of the Company or any Relevant Group Company and with or for whom you or any person reporting to you had dealings, was responsible or acted or in respect of whom you had access to Confidential Information during the Relevant Period (other than at a de minimis level);
“Effective Date”	means the Termination Date or (if earlier) the date on which you commence Garden Leave;
“Group Company”	means any holding company for the time being of the Company or any subsidiary for the time being of the Company or any such holding company (for which purpose “holding company” and “subsidiary” shall have the meaning set out in section 736, Companies Act 1985 as amended);
“Key Employee”	means any person who was an employee, director or consultant employed or engaged by the Company or any Relevant Group Company at the Effective Date or at any time in the Relevant Period and in each case who worked or provided services in an executive or senior managerial capacity and with or for whom you or any person reporting directly to you dealt personally (other than at a de minimis level) or had material involvement with or in respect of whom you had access to Confidential Information, during the Relevant Period.;
“Minority Investor”	means a person who is the beneficial owner of shares or other securities of any company whose shares are quoted on any Recognised Investment Exchange which when aggregated with shares or other securities beneficially owned by his or her spouse, children, step children, parents and parents’ children total no more than one per cent. of any single class of shares or other securities in such company;
“Prospective Customer”	means any person, firm or company who was at any time during the period of 6 months immediately preceding the Effective Date in negotiations with the Company or any Relevant Group Company with a view to such person, firm or company dealing with the Company or any Relevant Group Company as a customer or client and with or for whom you or any person reporting directly to you had dealings , was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information during the said period;

“Prospective Supplier”	means any person, firm or company who was at any time during the period of 6 months immediately preceding the Effective Date in negotiations with the Company or any Relevant Group Company with a view to such person, firm or company dealing with the Company or any Relevant Group Company as a supplier of goods or services and with or for whom you or any person reporting to you had dealings, was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information during the said period.
“Recognised Investment Exchange”	has the meaning given to it in section 285, Financial Services and Markets Act 2000;
“Relevant Capacity”	means either alone or jointly with another or others, whether as principal, agent, consultant, director, partner, shareholder, independent contractor, employee or in any other capacity, whether directly or indirectly through any other person, firm or company, and whether for your own benefit or that of others;
“Relevant Group Company”	means any Group Company to which you have rendered services or which you had management or operational responsibility during the course of your employment at any time during the Relevant Period;
“Relevant Period”	means the twelve-month period ending with the Effective Date;
“Restricted Area”	means England and such other countries in which the Company or any Relevant Group Company carried on any Restricted Business at the Effective Date;
“Restricted Business”	means the business of providing targeted branded mobile phone content services and mobile and voice chat and community services direct to customers and offering an adult television channel;
“Supplier”	means any person, firm or company who at any time during the Relevant period was a supplier of goods or services to the Company or any Relevant Group Company and with or for whom you or any person reporting directly to you had dealings, was responsible or acted (other than at a de minimis level) or about whom you had access to Confidential Information, during the Relevant Period.

- 13.2. You shall not in a Relevant Capacity (save as a Minority Investor or with the express written consent of the Board):
- 13.2.1. for the period of 9 months from the Effective Date take any steps preparatory to or be engaged or concerned or interested in or carry on any business within the Restricted Area which competes with (or will within such period compete with) the Restricted Business;
  - 13.2.2. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or endeavour to entice away from the Company or any Relevant Group Company the custom or business of any Customer;
  - 13.2.3. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or endeavour to entice away from the Company or any other Group Company the custom or business of any Prospective Customer;
  - 13.2.4. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with or act for or provide services to any Customer;
  - 13.2.5. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with or act for or provide services to any Prospective Customer;
  - 13.2.6. for the period of 12 months from the Effective Date solicit or endeavour to entice away from the Company or any Relevant Group Company or offer employment to any Key Employee, or do any act which may encourage any Key Employee to terminate his employment, appointment or contract with the Company or any Relevant Group Company;
  - 13.2.7. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or seek to disrupt, or endeavour to entice away from the Company or any Relevant Group Company the goods or services provided to the Company or any Relevant Group Company by any Supplier;
  - 13.2.8. so as to compete with the Restricted Business for the period of 12 months from the Effective Date (whether orally or by way of letters, circulars or otherwise) canvass, solicit, interfere with or seek to disrupt, or endeavour to entice away from the Company or any Relevant Group Company the goods or services provided to the Company or any Relevant Group Company by any Prospective Supplier;
  - 13.2.9. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with any Supplier;

- 13.2.10. so as to compete with the Restricted Business for the period of 12 months from the Effective Date have any business dealings with any Prospective Supplier; or
- 13.2.11. for the period of 12 months from the Effective Date do or say anything likely or calculated to lead any person, firm or company to cease or not to offer to the Company or any other Group Company any rights of purchase, sale or agency; or
- 13.2.12. encourage, assist or procure any other person, firm, company or other organisation to do anything which, if done by you, would be a breach of any of your obligations under clauses 13.2.1 to 13.2.11 above.
- 13.3. You shall not at any time (whether during the employment or thereafter) use any name (whether as part of a corporate name or otherwise) which is used by the Company or any other Group Company at the Termination Date or any other name which is likely to cause confusion with any such name in the minds of members of the public.
- 13.4. You shall not at any time after the Termination Date represent yourself as being employed by or otherwise connected with the Company or any other Group Company.
- 13.5. You shall at the request of the Company enter into a direct agreement or undertaking with any other Group Company by which you will accept restrictions corresponding to the restrictions contained in this clause.
- 13.6. You acknowledge that the provisions of this clause constitute severable undertakings given for the benefit of the Company and all other Group Companies and may be enforced by the Company on its own behalf or on behalf of any other Group Company.
- 13.7. Before accepting any employment, appointment or engagement with any third party either during your employment or at any time during the period of 6 months after the Termination Date you shall draw the provisions of this clause to the attention of such third party.
- 13.8. Each of the restrictions contained at clauses 13.2 to 13.4 constitutes a n entirely separate and independent restriction and is considered by the parties each of whom has taken independent legal advice to be reasonable and necessary for the protection of the legitimate interests of the Company and Group but if any such restriction or part thereof shall be found void, invalid, illegal or unenforceable by any court of competent jurisdiction but would be valid if some words were deleted therefrom, or the period thereof reduced, or area covered or range of activities reduced, such restriction shall apply with such modification as may be necessary to make it valid and effective.
- 13.9. In the event of any clause contained in this Agreement or any part thereof being declared invalid or unenforceable by any court of competent jurisdiction, all other clauses or parts thereof contained in this Agreement shall remain in full force and effect and shall not be affected thereby.

#### **14. DISCIPLINARY PROCEDURE AND GRIEVANCE PROCEDURES**

The Company's Disciplinary Procedure and Grievance Procedure are available from the Company. This sets out the guidelines for dealing with disciplinary and grievance issues. However, these procedures will not form part of your contract of employment.

## **15. SAFEGUARDING INFORMATION AND COMMUNICATION SYSTEMS**

- 15.1. The Company regards the integrity of its computer system as central to the success of the business. Its policy is to take any measures it considers necessary to ensure that all aspects of the system are fully protected.
- 15.2. Misuse of the computer is a serious disciplinary offence. The following are examples of misuse:
- 15.2.1. fraud and theft;
  - 15.2.2. system sabotage;
  - 15.2.3. introduction of viruses and time bombs;
  - 15.2.4. using unauthorized software;
  - 15.2.5. obtaining unauthorised access;
  - 15.2.6. using the system for private work or game playing;
  - 15.2.7. breaches of the Data Protection Act;
  - 15.2.8. sending abusive, rude, discriminatory or defamatory messages via electronic mail; and
  - 15.2.9. hacking.
- 15.3. This list is not exhaustive. Depending on the circumstances of each case, misuse of the computer system is likely to be considered a gross misconduct offence, punishable by dismissal. Misuse amounting to criminal conduct will be reported to the police. You agree to indemnify the Company during and after your employment against all liability resulting from your breach of this clause.
- 15.4. If you suspect that a fellow employee is abusing the computer system should raise the matter with the CEO.
- 15.5. Company communication systems, which include telephone, fax, electronic mail and the Internet, must be used only for legitimate business purposes. It is accepted that you may from time to time need to make some personal use of these facilities but this and any form of non-business use of these facilities must be kept to a minimum. Personal use of Company facilities will be acceptable only provided that the frequency and duration of such usage does not interfere with the performance of your duties. The cost incurred through the personal use of Company and Group Company facilities may be re-charged to you and deducted from your salary at the Company's discretion. The Company reserves the right to monitor all e-mail/internet activity by you for the purposes of ensuring compliance with the Company's policies and procedures and of ensuring compliance with relevant regulatory requirements and you hereby consent to such monitoring.

## **16. INTELLECTUAL PROPERTY**

- 16.1. You acknowledge that because of the nature of your duties and the particular responsibilities arising as a result of such duties that you owe to the Company, you have a special obligation to further the interests of the Company.
- 16.2. You shall promptly disclose to the Company any idea or invention created in the manner prescribed by sections 39(1) and 39(2) of the Patents Act 1977. Any such inventions will then be dealt with in accordance with the provisions expressed in that Act.

- 16.3. You acknowledge that all trade marks, registered designs, design rights, copyright, database rights and other intellectual property rights (together, where registerable with the right to apply for registration of the same, aside from those described in clause 18.2), whether in existence now or coming into existence at any time in the future, will, on creation either during the normal course of employment or by using materials, tools or knowledge made available through your employment, vest in and be the exclusive property of the Company or any of Group Company which the Company shall nominate and if required to do so (whether during or after the termination of your employment), you shall execute all instruments and do all things necessary to vest ownership in the above rights in the Company as sole beneficial owner. Where the same does not automatically vest by Act of Parliament, you shall immediately assign the same to the Company. You irrevocably waive all your rights pursuant to sections 77 to 83 inclusive of the Copyright Designs and Patents Act 1988 and any statutory amendment thereto.
- 16.4. You appoint the Company to be your attorney in your name and on your behalf to execute any such instrument or do any such thing necessary for the purpose of giving to the Company or its nominee, the full benefit of the provisions of this clause 18 and acknowledge in favour of any third party that a certificate in writing signed by any director or secretary of the Company, that any instrument or act falls within the authority conferred shall be conclusive evidence that such is the case.

## **17. WHOLE AGREEMENT**

- 17.1. This letter constitutes the whole agreement between the parties. All other agreements (if any) for service between the Company and you are hereby abrogated and superseded and any sum or sums paid to you by way of remuneration under any such other agreements after the commencement of the employment shall be deemed to have been received by you on account of the remuneration payable to you under this letter. You have not been induced to enter into an agreement in the form of this letter in reliance on, nor have you been given any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as are expressly set out in this letter and, to the extent that any of them have been, you unconditionally and irrevocably waive any claims, rights or remedies which you might otherwise have had in relation thereto.
- 17.2. There is no collective agreement which directly affects the terms and conditions of employment contained in this letter.

## **18. RETIREMENT**

Your normal retirement age will be 65.

## **19. EXCLUSIVITY OF SERVICE**

- 19.1. Unless prevented by ill health and except during holiday taken in accordance with clause 6 you are required to devote your full working time, attention and abilities to your job duties during working hours and to act in the best interests of the Company at all times.
- 19.2. You must not during your employment (including, without limitation, any period of garden leave) without the written consent of the Company carry on or be or plan or attempt to be in any way directly or indirectly engaged, concerned or interested in any other business or undertaking (whether alone or on your own behalf or on behalf of or in association or in conjunction with any other person and whether as an employee or in any other capacity) where this is or is likely to compete with, or be in conflict with, the business of the Company or where this may affect the efficient discharge of your duties. You must therefore notify the Head of Worldwide Sales if you wish to enter into any other employment or acquire any other business interest during the course of your employment.

## **20. POLICIES AND PROCEDURES**

You agree to comply with the rules, policies and procedures of the Company in force from time to time.

## **21. DATA PROTECTION**

21.1. You hereby explicitly consent to the processing of personal data, (including any sensitive personal data, held or obtained or collected by the Company in relation to your employment) and the transfer of this data outside the EEA for the operation, administration or security arrangements and legitimate interests of the Company and in order to fulfil the Company's obligations to you.

21.2. You agree to fully observe and perform the obligations imposed on individuals contained in the Data Protection Act 1998 ("the Act") and any codes of practice or guidance issued under the Act and the Company's data protection policy in force from time to time in relation to any personal data including sensitive personal data that may come into your possession whilst employed by the Company. Breach of this clause may constitute a disciplinary offence.

21.3. The Company may from time to time need to make your records available to its professional advisers, including its lawyers, accountants or auditors and to legal and regulatory authorities, such as the Inland Revenue or the FSA, and to other parties which provide products or services to the Company, such as its pension administrators.

21.4. You should immediately notify Human Resources in writing of any changes to your personal details. Such changes may include but are not limited to:

21.4.1. your name, change of address or telephone number;

21.4.2. date of marriage, divorce or births in your immediate family;

21.4.3. examination passes;

21.4.4. change of life assurance beneficiary;

21.4.5. change of address, telephone number, etc. of next of kin or emergency contact;

21.4.6. bank details;

21.4.7. arrest, prosecution or conviction for a criminal offence;

21.4.8. any disciplinary action taken against you by a professional or regulatory body or if you become bankrupt, apply for or have made against you a receiving order, make any composition with your creditors or commit any act of bankruptcy.

## **22. EQUAL OPPORTUNITIES POLICY**

The Company has an equal opportunities policy which will be given to you on joining. You will take the benefit of this policy, but you are also required to observe its terms (although these do not form part of your contract of employment).



**23. AMENDMENTS AND WAIVERS**

- 23.1. No amendment to the provisions of this letter shall be effective unless in writing and signed by both parties hereto or their duly authorized representatives.
- 23.2. All rights, remedies and powers conferred upon the parties hereto are cumulative and shall not be deemed or construed to be exclusive of any other rights, remedies or powers now or hereafter conferred upon the parties hereto or either of them by law or otherwise.
- 23.3. Any failure at any time to insist upon or enforce any such right, remedy or power shall not be construed as a waiver thereof.

**24. WARRANTY AND UNDERTAKING**

- 24.1. You represent and warrant that you are not a party to any agreement, contract (whether of employment or otherwise) or understanding, which requires you to preserve the confidentiality of any information, client lists, trade secrets or other confidential information or which would in any way restrict or prohibit him from or conflict with or be breached by your undertaking or performing any of the duties of the employment in accordance with the terms and conditions of this Agreement.
- 24.2. You undertake that forthwith upon receiving from any person, firm or company an offer of employment, agency, consultancy, partnership or joint venture, or an approach which may result in such an offer being received, during the employment or whilst any of the restrictions in this Agreement continue in force you will forthwith notify the Company and provide the person, firm or company making the offer with a full and accurate copy of this Agreement.

**25. NOTICES**

Any notice required or desired to be delivered under this Agreement shall be in writing and shall be delivered personally, by courier service, by registered mail, return receipt requested, or by telecopy and shall be effective upon actual receipt when delivered or sent by telecopy and upon mailing when sent by registered mail, and shall be addressed as follows (or to such other address as the party entitled to notice shall hereafter designate in accordance with the terms hereof):

If to the Company:

AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

If to Employee:

Jonathan Cresswell (a/k/a Jack Cresswell)  
AMV Holding Limited  
65 High Street  
Marlow  
Buckinghamshire, United Kingdom

**26. POST-TERMINATION PROVISIONS**

Any provision of this letter which contemplates or is capable of operation after the termination of the employment shall apply notwithstanding termination of the employment for whatever reason including, without limitation, an unlawful termination by the Company.

**27. GOVERNING LAW**

27.1. This letter shall be governed by and construed in all respects in accordance with the laws of England.

27.2. Each of the parties hereto hereby irrevocably submits to the exclusive jurisdiction of the English Courts.

We hope you find this offer acceptable. Please confirm your agreement to these terms of employment by signing the enclosed copy of this document and returning it to the Company's General Counsel.

Yours sincerely

On behalf of the Company

By: /s/ James Lefkowitz

Name: James Lefkowitz

Title: Director

Personal ID Number: \_\_\_\_\_

I confirm my agreement to the above terms of employment.

By: /s/ Jonathan Cresswell

Name: Jonathan Cresswell (a/k/a Jack Cresswell)

Personal ID Number: \_\_\_\_\_

## **SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement, dated as of October 23, 2008 (this “**Agreement**”), is entered into by and among Mandalay Media, Inc., a Delaware corporation with headquarters located at c/o Trinad Capital, L.P., 2121 Avenue of the Stars, Suite 2550, Los Angeles, California 90067 (the “**Company**”), and the investors listed on the Schedule of Investors attached hereto as Exhibit A (each individually, an “**Investor**” and collectively, the “**Investors**”).

### **BACKGROUND**

WHEREAS, the Company is offering in a private placement (the “**Offering**”) to “accredited investors” (as such term is defined in Regulation D (“**Regulation D**”) promulgated under the Securities Act of 1933, as amended (the “**Securities Act**”), the opportunity to purchase a minimum of 1,685,393 shares (the “**Minimum Shares**”) and a maximum of up to an aggregate of 3,370,786 shares (the “**Maximum Shares**”) of its common stock, \$0.0001 par value per share (the “**Common Stock**”), at a purchase price of \$2.67 per share (the “**Purchase Price**”) and, in connection therewith and in consideration thereof, warrants to purchase Common Stock in the form attached hereto as Exhibit B (the “**Warrants**”);

WHEREAS, the Investors desire to purchase that number of shares of Common Stock (the “**Shares**”) and Warrants to purchase that number of shares of Common Stock (the “**Warrant Shares**”) (the Shares and Warrants together, the “**Securities**”) as are set forth on Exhibit A hereto, subject to the terms and conditions set forth herein;

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

#### 1. Sale of Securities.

1.1 Sale of Securities; Subscription for Securities. Subject to the terms and conditions of this Agreement, at the applicable Closing (as hereinafter defined), the Company will sell and issue to each of the Investors, and each of the Investors will purchase, that number of Shares and Warrants to purchase that number of Warrant Shares as set forth opposite such Investor’s name on Exhibit A in exchange for the “Aggregate Purchase Price” set forth opposite such Investor’s name on Exhibit A (the “**Aggregate Purchase Price**”).

To purchase the Securities, this Agreement must be duly executed by each Investor and the Aggregate Purchase Price delivered by each Investor in the form of wire transfer to (i) the account designated in the escrow agreement entered into by and among the Company, the Initial Closing Investors (as hereinafter defined) and American Stock Transfer Company, LLC as escrow agent (the “**Escrow Agent**”), attached hereto as Exhibit K (the “**Escrow Agreement**”), provided, that the amount to be delivered by VAC (as hereinafter defined) shall be net of any reasonable legal expenses of VAC incurred in the negotiation and preparation of this Agreement and the transactions contemplated hereby, in any event not to exceed \$100,000, or (ii) the account designated in writing to each Investor by the Company at any Closing subsequent to the Initial Closing. The Investors participating in the Initial Closing are referred to herein as the “**Initial Closing Investors.**”

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1.2 Use of Proceeds. The Company will use the net proceeds from the sale of the Securities to fund the business of the Company and for working capital and general corporate purposes, including potential acquisitions.

2. The Closing. The initial closing hereunder shall occur upon the delivery by each of the Initial Closing Investors of the Aggregate Purchase Price sufficient to purchase the Minimum Shares and Warrants issued in connection therewith to the account designated in the Escrow Agreement, and shall take place at such time and place as the Company may designate which shall be no later than the first business day following the satisfaction or waiver of all the conditions set forth in Section 5 and Section 6 of this Agreement (the “**Initial Closing**,” and the date on which the Initial Closing occurs, the “**Initial Closing Date**”). Following the Initial Closing Date, the Company may hold additional closings (each, with the Initial Closing, a “**Closing**,” and each such date, with the Initial Closing Date, a “**Closing Date**”) at such places and times as designated by the Company, until the earlier of (i) such time as the Company has sold up to the Maximum Shares and the Warrants issued in connection therewith or (ii) forty-five (45) days after the Initial Closing Date.

Within three business days following the release by the Escrow Agent to the Company of the Aggregate Purchase Price sufficient to purchase the Minimum Shares, the Company shall deliver to each Initial Closing Investor (i) a certificate for the Shares being purchased by such Initial Closing Investor and (ii) Warrants for the Warrant Shares being purchased by such Initial Closing Investor, registered in the name of such Initial Closing Investor.

Within three business days following each Closing subsequent to the Initial Closing, the Company shall deliver to each Investor (i) a certificate for the Shares being purchased by such Investor and (ii) Warrants for the Warrant Shares being purchased by such Investor, registered in the name of such Investor, against payment of the Aggregate Purchase Price therefor in accordance with Section 1.1 above.

Each Investor hereby authorizes and directs the Company to deliver the Securities to be issued to such Investor pursuant to this Agreement directly to the residential or business address indicated on such Investor’s signature page hereto.

3. Representations of the Company. A Schedule of Exceptions, attached hereto as Exhibit C (each, a “**Schedule of Exceptions**”), shall be delivered to the Investors in connection with each Closing. The Schedule of Exceptions shall be arranged in sections corresponding to the numbered and lettered sections and subsections contained in this Section 3, and the disclosures in any section or subsection of the Schedule of Exceptions shall qualify other sections and subsections in this Section 3 to the extent it is reasonably apparent from a reading of the disclosure that such disclosure is applicable to such other sections and subsections. Except as set forth in the Schedule of Exceptions delivered to the Investors at the applicable Closing, the Company hereby represents and warrants to the Investors as follows:

3.1 Organization, Good Standing and Qualification. Each of the Company and its subsidiaries has been duly incorporated and organized, and is validly existing in good standing, under the laws of its state of incorporation and qualified to do business in any state or other jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary except where the failure to be so qualified or in good standing, as the case may be, would not reasonably be expected to individually or in the aggregate, (i) materially and adversely affect the legality, validity or enforceability of any Transaction Document (as hereinafter defined), (ii) have or result in a material adverse effect on the results of operations, assets, business, prospects or financial condition of the Company or any Company subsidiary or (iii) materially and adversely impair the Company's ability to perform its obligations under any of the Transaction Documents (any of (i), (ii) or (iii), a "**Material Adverse Effect**").

3.2 Corporate Power and Authority. The Company has all requisite corporate power and authority to execute, deliver, and perform, this Agreement, the Escrow Agreement and the Warrants (together, the "**Transaction Documents**"), to sell and issue the Securities (including the underlying Warrant Shares) hereunder, and to own and operate its properties and assets and to carry on its business as currently conducted and as presently proposed to be conducted.

3.3 Authorization and Enforcement. The execution and delivery of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of the Company, its officers, directors and stockholders. Each of the Transaction Documents has been duly executed and delivered by the Company and, assuming that this Agreement constitutes a valid and binding agreement of the other parties hereto, each such Transaction Document constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, regardless of whether enforceability is considered in a proceeding at law or in equity.

3.4 Subsidiaries. The Company does not presently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, association, or other entity other than the subsidiaries scheduled on Section 3.4 of the Schedule of Exceptions. Except as set forth in Section 3.4 of the Schedule of Exceptions, the Company owns, directly or indirectly, all of the capital stock or comparable equity interests of each subsidiary free and clear of any liens and all the issued and outstanding shares of capital stock or comparable equity interest of each subsidiary are, to the extent applicable, validly issued, fully paid, non-assessable and free of preemptive and similar rights.

3.5 No Conflicts. The execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated hereby and thereby will not result in any violation or default under, or result in a violation or breach of, with or without the passage of time or the giving of notice or both, (i) the Company's or any Company subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) any judgment, order or decree of any court or arbitrator to which the Company or any Company subsidiary is a party or is subject, (iii) any agreement or contract of the Company or any Company subsidiary, or (iv) to the Company's knowledge, a violation of any statute, law, regulation or order, or an event which results in the creation of any lien upon any asset of the Company or any Company subsidiary, in any such case which would have a Material Adverse Effect.

### 3.6 Valid Issuance of Securities.

(a) The Shares, if and when issued and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued and outstanding, fully paid, and non-assessable and will be free of restrictions on transfer other than restrictions on transfer under applicable state and federal securities laws.

(b) The Warrants have been duly and validly authorized by the Company and, if and when paid for and then issued in accordance with the terms of this Agreement for the consideration expressed herein, will be validly executed and delivered by the Company. The Warrant Shares have been duly and validly authorized and reserved for issuance upon exercise of the Warrants and when issued upon such exercise in accordance with the Warrants, will be duly and validly issued and outstanding, fully paid and non-assessable and will be free of restrictions on transfer other than restrictions on transfer under applicable state and federal securities laws.

(c) Assuming the truth and accuracy of the representations made by each Investor in Section 4 hereof, the offer and sale of the Securities solely to each Investor in accordance with this Agreement and (assuming no change in currently applicable law, no transfer of Securities by any holder thereof and no commission or other remuneration is paid or given, directly or indirectly, for soliciting the issuance of Warrant Shares upon exercise of the Warrants) the issuance of the Warrant Shares on a cashless basis are exempt from the registration and prospectus delivery requirements of the Securities Act and the securities registration and qualification requirements of the currently effective provisions of the securities laws of the State of California and the states in which the Investor is a resident based upon its address set forth on the Schedule of Investors attached hereto as Exhibit A.

### 3.7 Capitalization. The capitalization of the Company immediately prior to the Initial Closing consists of the following:

(a) Common Stock. A total of 100,000,000 shares of Common Stock are authorized, of which 37,338,554 shares are issued and outstanding.

(b) Preferred Stock. A total of 1,000,000 shares of preferred stock, par value \$0.0001 per share (the “**Preferred Stock**”), are authorized, of which 100,000 shares are designated as Series A Convertible Preferred Stock, par value \$0.0001 per share, all of which are issued and outstanding.

(c) Options. A total of 7,000,000 shares of Common Stock are reserved for issuance to employees, consultants and directors pursuant to the Company's 2007 Employee Director and Consultant Stock Plan (the "**Plan**"), of which options to purchase 6,201,864 Common Stock are issued and outstanding, and an additional 2,463,422 shares of Common Stock are reserved for issuance under the Twistbox Entertainment, Inc. 2006 Stock Incentive Plan. 798,136 shares of Common Stock remain available for future issuance under the Plan.

(d) Warrants. A total of 2,495,243 shares of Common Stock are reserved for issuance pursuant to outstanding warrants.

(e) Senior Secured Note. A portion of the principal amount due under the \$16.5 million senior secured note issued by Twistbox Entertainment, Inc. to ValueAct Smallcap Master Fund, L.P., due January 30, 2010, as amended, may be repaid by the Company in shares of Common Stock.

(f) Except as set forth in this Section 3.7, there are no outstanding options, warrants, rights (including conversion or preemptive rights) or agreements for the purchase or acquisition from the Company of any shares of its capital stock or any securities convertible into or ultimately exchangeable or exercisable for any shares of the Company's capital stock. Apart from the exceptions noted herein or in the Schedule of Exceptions, no shares of the Company's outstanding capital stock, or stock issuable upon exercise or exchange of any outstanding options, warrants or rights, or other stock issuable by the Company, are subject to any preemptive rights, rights of first refusal or other rights to purchase such stock (whether in favor of the Company or any other person), pursuant to any agreement or commitment of the Company. The Company has not made any representations regarding equity incentives to any officer, employee, director or consultant that are inconsistent with the share amounts and terms set forth in the Company's board or director meeting minutes and/or actions by written consent of the Company's board of directors.

(g) The outstanding shares of the capital stock of the Company (i) are duly authorized and validly issued, fully paid and nonassessable, and have been approved by all requisite stockholder action, and (ii) assuming the accuracy of the representations and warranties and the compliance with the covenants made by the original purchasers of such shares, were issued in compliance with all applicable state and federal laws concerning the issuance of securities.

3.8 Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, (i) any federal, state or local governmental authority having jurisdiction over the Company or any Company subsidiary, or (ii) any other person or entity, is required on the part of the Company or any Company subsidiary in order to enable the Company or any Company subsidiary to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is a party except (A) where the failure to obtain the same would not have a Material Adverse Effect, (B) for such qualifications or filings under applicable securities laws as may be required in connection with the transactions contemplated by this Agreement and (C) for such board of director and stockholder consents that have been obtained prior to the Closing. All such qualifications and filings will, in the case of qualifications, be effective on the Closing and will, in the case of filings, be made within the time prescribed by law.

3.9 Absence of Litigation. There is no action, suit, proceeding, claim, arbitration or investigation pending (or, to the Company's knowledge, currently threatened) against the Company or any Company subsidiary, its respective activities or its respective properties before any court or governmental agency. There is no action, suit, proceeding or investigation by the Company or any Company subsidiary currently pending or which the Company or any Company subsidiary intends to initiate.

3.10 Compliance. Neither the Company nor any Company subsidiary (i) is in violation of any term of its certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) is in violation of any material term or provision of any indebtedness, instrument, judgment or decree or any material agreement and (iii) to its knowledge, is in violation of any order, statute, rule or regulation applicable to the Company where such violation would have a Material Adverse Effect.

3.11 Title to Assets. The Company and each Company subsidiary owns and has good and marketable title to its respective tangible properties and assets, free and clear of all mortgages, deeds of trust, liens, encumbrances and security interests except for statutory liens for the payment of current taxes that are not yet delinquent and liens, encumbrances and security interests which arise in the ordinary course of business and which do not affect material properties and assets of the Company or any Company subsidiary. All facilities, machinery, equipment, fixtures, vehicles and other properties owned, leased or used by the Company or any Company subsidiary are in good operating condition and repair, ordinary wear and tear excepted.

3.12 Indebtedness. Except as scheduled on Section 3.12 of the Schedule of Exceptions, neither the Company nor any Company subsidiary has (i) any indebtedness for borrowed money or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business consistent with past practice and payable in accordance with customary practices), (ii) any other indebtedness that is evidenced by a note, bond, debenture or similar instrument, (iii) any obligations under financing leases, (iv) any obligations in respect of acceptances issued or created, (v) any liabilities secured by any lien on any property or (vi) any guarantee obligations.

3.13 No General Solicitation; Brokers or Finders. Except as provided in Section 10 of this Agreement, neither the Company, nor any of its affiliates, nor any person or entity acting on its or their behalf, has (i) engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities or (ii) any liability to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement or any of the other Transaction Documents.

3.14 Private Placement. None of the Company, the Company subsidiaries, any of their affiliates, or any person or entity acting on their behalf has, directly or indirectly, at any time within the past six (6) months, made any offer or sale of any security or solicitation of any offer to buy any security under circumstances that would (i) eliminate the availability of the exemption from registration under Regulation D under the Securities Act in connection with the offer and sale by the Company of the Securities as contemplated hereby or (ii) cause the offering of the Securities pursuant to the Transaction Documents to be integrated with prior offerings by the Company for purposes of any applicable law, regulation or stockholder approval provisions, including, without limitation, under the rules and regulations of any securities exchange, market or trading or quotation facility on which the Common Stock is listed or quoted.



3.15 Registration Rights. Except as contemplated by this Agreement, the Company is not under any obligation to register under the Securities Act any of its currently outstanding securities or any securities issuable upon exercise or conversion of its currently outstanding securities nor is the Company obligated to register or qualify any such securities under any state securities or blue sky laws.

3.16 Disclosure. This Agreement, the exhibits hereto, the other Transaction Documents and any certificate expressly delivered by the Company or any Company subsidiary to the Investors or their attorneys or agents in connection herewith or therewith or with the transactions contemplated hereby or thereby, taken as a whole, neither contain any untrue statement of a material fact nor, to the Company's knowledge, omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

4. Representations of the Investors. Each of the Investors severally represents and warrants to the Company as follows:

4.1 Authorization. This Agreement constitutes the Investor's valid and legally binding obligation, enforceable against the Investor in accordance with its terms except as may be limited by (i) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (ii) the effect of rules of law governing the availability of equitable remedies. The Investor represents that it has full power and authority to execute and deliver the Transaction Documents to which it is a party and perform its obligations thereunder.

4.2 Regulation D.

(a) The Investor understands and acknowledges that (i) the Securities acquired pursuant to this Agreement have not been registered under the Securities Act and are being sold in reliance upon an exemption from registration afforded by Regulation D and that such Securities have not been registered with any state securities commission or authority, (ii) pursuant to the requirements of Regulation D, the Securities may not be transferred, sold or otherwise exchanged unless in compliance with the provisions of Regulation D and/or pursuant to registration under the Securities Act, or pursuant to an available exemption thereunder and (iii) other than as set forth in Section 7 of this Agreement, the Company is under no obligation to register the Securities under the Securities Act or any state securities law, or to take any action to make any exemption from any such registration provisions available.

(b) The Investor is an "accredited investor" within the meaning of Rule 501 of Regulation D, is knowledgeable, sophisticated and experienced in making, and is qualified to make, decisions with respect to investment shares representing an investment decision like that involved in the purchase of the Securities.

(c) The Securities to be purchased by the Investor hereunder will be acquired for investment for the Investor's own account, not as a nominee or agent, and not with a view to the public resale or distribution thereof with the meaning of the Securities Act, and the Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. If not an individual, the Investor also represents that the Investor has not been formed for the specific purpose of acquiring the Securities. The Investor recognizes that an investment in the Securities involves a high degree of risk, including a risk of total loss of the Investor. The Investor understands, acknowledges and agrees that it must bear the economic risk of its investment in the Securities for an indefinite period of time and has knowledge and experience in financial and business matters such that it is capable of evaluating the risks of the investment in the Securities and the Investor understands, acknowledges and agrees that prior to any such offer or sale, the Company may require, subject to the fulfillment of the Company's obligations under Section 7 of this Agreement, as a condition to effecting a transfer of the Securities, an opinion of counsel, acceptable to the Company, as to the registration or exemption therefrom under the Securities Act and any state securities acts, if applicable.

(d) At no time was the Investor presented with or solicited by any publicly issued or circulated newspaper, mail, radio, television or other form of general advertising or solicitation in connection with the offer, sale and purchase of the Securities. To the knowledge of such Investor, such Investor has received or has had full access to all the information it requested in connection with its investment decision with respect to the Securities to be purchased by such Investor under this Agreement, including without limitation, the Company's filings with the United States Securities and Exchange Commission. Investor further has had a reasonable opportunity to ask questions of and receive answers from the directors, officers and management of the Company concerning the Company and the transactions contemplated by this Agreement and the Company's business, management and financial affairs.

(e) The Investor acknowledges that the Securities will bear a legend in substantially the following form:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE (THE "SECURITIES") HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES LAWS OR MANDALAY MEDIA, INC. SHALL HAVE RECEIVED AN OPINION OF ITS COUNSEL THAT REGISTRATION OF SUCH SECURITIES UNDER THE SECURITIES ACT AND UNDER THE PROVISIONS OF APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED.

(f) Neither the Investor, nor any affiliate of the Investor or any person acting on his, her or its behalf, has recently sold shares of unregistered Common Stock of the Company.

5. Conditions to the Closing.

5.1 Conditions to the Obligations of the Company. The obligations of the Company under Section 1 of this Agreement are subject to the fulfillment, or waiver, of the following conditions on or before the Closing:

(a) The representations and warranties of the Investors contained in Section 4 shall be true on and as of the date hereof and the Closing Date with the same effect as though such representations and warranties had been made on and as of such date (except that any representation or warranty expressly stated to have been made or given as of a specific date need be true only as of such date).

(b) The Investors shall have delivered payment to the Company for the Securities pursuant to this Agreement.

(c) The Investors shall have duly executed and delivered the Transaction Documents to which they are parties.

5.2. Conditions to the Obligations of Each of the Investors. The obligations of each of the Investors under Section 1 of this Agreement are subject to the fulfillment, or waiver, of the following conditions on or before each Closing:

(a) The representations and warranties of the Company contained in Section 3 shall be true on and as of the date hereof and the Closing Date with the same effect as though such representations and warranties had been made on and as of such date (except that any representation or warranty expressly stated to have been made or given as of a specific date need be true only as of such date).

(b) The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the sale of the Securities.

(c) The Company shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or prior to the Closing Date.

(d) The Company shall have duly executed and delivered to each Investor such other documents relating to the transaction contemplated by this Agreement as such Investor or its counsel may reasonably request.

(e) The Company shall have delivered to each Investor an officer's certificate duly executed by the Company's Chief Executive Officer certifying to the fulfillment of the conditions specified in Sections 5.2(a) through 5.2(c).

6. Additional Conditions to the Initial Closing.

6.1 Conditions to the Obligations of the Initial Closing Investors. In addition to the conditions set forth in Section 5.2, the obligations of the Initial Closing Investors under Section 1 of this Agreement are subject to the fulfillment, or the waiver, of the following conditions on or before the Initial Closing.

(a) The Company shall have duly executed and delivered to ValueAct SmallCap Master Fund, L.P. (“VAC”) the allonge to the warrant to purchase 1,092,621 shares of Common Stock in the form as set forth on Exhibit D hereto.

(b) The Company shall have duly executed and delivered to VAC the allonge to the warrant to purchase 1,092,622 shares of Common Stock in the form as set forth on Exhibit E hereto.

(c) The Company shall have delivered to VAC a duly executed copy of that certain promissory note issued by the Company to the shareholders of AMV Holdings Limited, Jack Creswell and Nathan MacLeitch in the form as set forth on Exhibit F hereto.

(d) AMV Holding Limited shall have duly executed and delivered to VAC that certain debenture in the form as set forth on Exhibit G hereto.

(e) AMV Holding Limited shall have duly executed and delivered to VAC that certain guarantee in the form as set forth on Exhibit H hereto.

(f) AMV Holding Limited, Nathaniel MacLeitch in his capacity as Junior Agent (as defined therein) and the Junior Lenders (as defined therein) shall have duly executed and delivered to VAC that certain priority deed in the form as set forth on Exhibit I hereto.

(g) The Company and Twistbox Entertainment, Inc. shall have duly executed and delivered to VAC that certain Second Amendment and Waiver to the Senior Secured Note due January 10, 2010 in the form as set forth on Exhibit J hereto.

(h) The Company shall have delivered to the Initial Closing Investors an officer’s certificate duly executed by the Company’s Chief Executive Officer certifying to the completion of the acquisition by the Company of 100% of the share capital of AMV Holdings Limited and 80% of the share capital of Fierce Media Limited.

(i) The Company shall have duly executed and delivered to each Initial Closing Investor the Escrow Agreement in the form as set forth on Exhibit K hereto.

## 7. Covenants of the Company.

7.1 Piggyback Registration Rights. If at any time the Company shall determine to register under the Securities Act any of its securities (other than on Form S-8 or Form S-4 or their then equivalents and other than shares to be issued solely (i) in connection with any acquisition of any entity or business, (ii) upon the exercise of stock options, or (iii) pursuant to employee benefit plans), it shall send to each holder of Registrable Shares (as defined below), including each holder who has the right to acquire Registrable Shares, written notice of such determination and, if within thirty (30) days after receipt of such notice, such holder shall so request in writing, the Company shall use its commercially reasonable efforts to include in such registration statement all or any part of the Registrable Shares such holder requests to be registered therein; provided that, if, in connection with any offering involving an underwriting of Common Stock to be issued by the Company, the managing underwriter shall prohibit the inclusion of shares of Common Stock by selling holders in such registration statement or shall impose a limitation on the number of shares of such Common Stock which may be included in any such registration statement because, in its judgment, such limitation is necessary to effect an orderly public distribution, and such limitation is imposed pro rata with respect to all securities whose holders have a contractual, incidental (“**piggyback**”) right to include such securities in the registration statement and as to which inclusion has been requested pursuant to such right and there is first excluded from such registration statement all shares of Common Stock sought to be included therein by (i) any holder thereof not having any such contractual, incidental registration rights, and (ii) any holder thereof having contractual, incidental registration rights subordinate and junior to the rights of the holders of Registrable Shares, the Company shall then be obligated to include in such registration statement only such limited portion (which may be none) of the Registrable Shares with respect to which such holder has requested inclusion hereunder. “**Registrable Shares**” means the Shares and the Warrant Shares; provided, however, that any of such shares shall cease to be Registrable Shares upon any sale of such shares pursuant to (i) a registration statement filed under the Securities Act, or (ii) Rule 144 promulgated under the Securities Act.

7.2 Reservation of Common Stock. The Company shall reserve and maintain, from its duly authorized shares of Common Stock, a sufficient number of shares of Common Stock for issuance hereunder and upon exercise of all of the Warrants to be issued hereunder. In the event that at any time the then authorized shares of Common Stock are insufficient for the Company to satisfy its obligations in full under the Transaction Documents, the Company shall promptly take such actions as may be required to increase the number of authorized shares.

8. Transfer of Securities. Each Investor is aware that the Company will make a notation in its appropriate records and issue “stop transfer” instructions to its transfer agent with respect to the restrictions on the transferability of such Securities.

9. Anti-Dilution. The Shares are subject to standard anti-dilution provisions in the event of forward or reverse stock splits or recapitalizations. For example, if the Company engages in a two for one reverse stock split, a holder of 100,000 Shares will be affected as follows:

Pre-Split Ownership:

100,000 Shares

Post-Split Ownership:

50,000 Shares

10. Broker's Fees. The Investor is aware that, in connection with the Offering, the Company may pay a broker's fee or fees totaling cash fees of 6% of the gross proceeds received by the Company from the Offering above an aggregate of \$4,500,000.

11. Miscellaneous.

11.1 Termination. This Agreement may be terminated by the Company or any Investor, by written notice to the other parties, if the Initial Closing has not been consummated within 60 days from the date hereof, provided that no such termination will affect the right of any party to sue for any breach by the other party (or parties).

11.2 Successors and Assigns. This Agreement and any rights and obligations hereunder may not be transferred or assigned by either party without the prior written consent of the other party. This Agreement shall inure to the benefit of, and be binding upon the Company and the Investors and their respective heirs, legal representatives and permitted assigns.

11.3 Survival. All representations, warranties, covenants and agreements contained herein shall survive the Closing.

11.4 Notices. All notices or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed by certified or registered mail, return receipt requested, postage prepaid, as follows:

(a) If to the Company, to Mandalay Media, Inc., c/o Trinad Capital L.P., 2121 Avenue of the Stars, Suite 2550, Los Angeles, CA 90067, Attention: Chief Financial Officer, or to such other address as the Company shall have designated to the Investors in writing.

(b) If to an Investor, at his, her or its address set forth on Exhibit A, or at such other address or addresses as may have been furnished to the Company in writing by such Investor.

11.5 Entire Agreement. This Agreement and the Warrant, together with all schedules and exhibits thereto, embody the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, relating to such subject matter, which the parties acknowledge have been merged into such documents, exhibits and schedules. At or after the Closing, and without further consideration, the Company and each Investor will execute and deliver such further documents as may be reasonably requested in order to give effect to the intention of the parties under the Transaction Documents.

11.6 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of (i) the Company, (ii) VAC and (iii) the other Investors holding a majority of the Shares and Warrant Shares on an as-converted basis issued hereunder. Subject to the preceding sentence, any amendment or waiver effected in accordance with this Section 11.6 shall be binding upon all parties to this Agreement including, without limitation, any Investor who may not have executed such amendment or waiver.

11.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be one and the same document.

11.8 Section Headings. The section headings are for the convenience of the parties and in no way alter, modify, amend, limit, or restrict the contractual obligations of the parties.

11.9 Severability. If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

11.10 Governing Law; Venue; Waiver of Jury Trial. ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING, WITHOUT LIMITATION, SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND NEW YORK CIVIL PRACTICE LAWS AND RULES 327(b). EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS SITTING IN THE CITY OF NEW YORK, BOROUGH OF MANHATTAN, FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HERewith OR WITH ANY TRANSACTION CONTEMPLATED HEREBY OR DISCUSSED HEREIN (INCLUDING WITH RESPECT TO THE ENFORCEMENT OF ANY OF THE TRANSACTION DOCUMENTS), AND HEREBY IRREVOCABLY WAIVES, AND AGREES NOT TO ASSERT IN ANY SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY SUCH COURT, THAT SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER. EACH PARTY HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF PROCESS AND CONSENTS TO PROCESS BEING SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING BY MAILING A COPY THEREOF VIA REGISTERED OR CERTIFIED MAIL OR OVERNIGHT DELIVERY (WITH EVIDENCE OF DELIVERY) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE GOOD AND SUFFICIENT SERVICE OF PROCESS AND NOTICE THEREOF. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT IN ANY WAY ANY RIGHT TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW. THE COMPANY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY.

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

11.12 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and the execution by the holder thereof of a customary lost certificate affidavit of that fact and an agreement to indemnify and hold harmless the Company for any losses in connection therewith. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Securities.

11.13 No Promotion. Except as otherwise required by law, the Company agrees that it will not, without the prior written consent of VAC in each instance, (i) use in advertising, publicity, press release or otherwise the name of VAC or any affiliate of VAC (each a "**VAC Entity**"), or any partner or employee of any VAC Entity, nor any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by any VAC Entity or (ii) represent, directly or indirectly, that any product or any service provided by the Company has been approved or endorsed by any VAC Entity. This provision shall survive termination of the Transaction Documents.

*[Signature page to follow]*



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

**COMPANY:**

**MANDALAY MEDIA, INC.**

By: /s/ James Lefkowitz

Name: James Lefkowitz

Title: President

***[Signature page to Securities Purchase Agreement]***

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**INVESTOR:**

VALUEACT SMALLCAP MASTER FUND, L.P.,  
By VA Smallcap Partners, LLC, its General Partner

By: /s/ David Lockwood

Name: David Lockwood

Title: Managing Member

TRINAD CAPITAL MASTER FUND, LTD.

By: /s/ Robert Ellin

Name: Robert Ellin

Title: Director

GUBER FAMILY TRUST

By: /s/ Peter Guber

Name: Peter Guber

Title: Trustee

*[Signature page to Securities Purchase Agreement]*

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**PROMISSORY NOTE**

\$5,375,000.00

Date of Issuance  
October 23, 2008

FOR VALUE RECEIVED, **Mandalay Media, Inc.**, a Delaware corporation (the "Company"), hereby promises to pay to the order of Nathaniel MacLeitch, as trustee for the Sellers (as defined below), with an address of c/o AMV Holding Limited, 65 High Street, Marlow, Buckinghamshire, United Kingdom (the "Holder"), the aggregate principal sum of Five Million Three Hundred Seventy Five Thousand Dollars (\$5,375,000.00), together with interest thereon from the date of this Note. Interest shall accrue on the unpaid principal balance at an initial rate of five percent (5%) per annum, subject to adjustment as provided in Section 1(e), and shall accrue on a daily basis from the date of this Note until paid. Interest shall be calculated on the basis of a three hundred and sixty (360) day year. This Note shall be non-assignable by the Company.

This Note has been issued pursuant to that certain Stock Purchase Agreement, dated as of October 8, 2008 (the "Purchase Agreement"), between the Company, the Holder, Jack Cresswell ("Cresswell") and the shareholders of AMV Holding Limited ("AMV") signatories thereto (together with the Holder and Cresswell, the "Sellers"), in connection with the acquisition of 100% of the share capital of AMV and 80% of the share capital of Fierce Media Limited. The Holder is holding this Note as trustee on behalf of Sellers, pursuant to the Purchase Agreement.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed to such terms in the Purchase Agreement.

The principal amount of this Note is subject to adjustment in accordance with the terms of Sections 2.1, 2.7, 2.9 and Article X of the Purchase Agreement. In the event of such an adjustment, the Holder and the Company agree to take all reasonably necessary actions to replace this Note with a new Note that reflects the adjusted principal amount. Other than as set forth in the Purchase Agreement, this Note is not subject to any set-off, counterclaim or deduction.

This Note is secured by the security interests granted pursuant to a certain Debenture, by and between AMV and the Holder, dated as of even date herewith, and the Holder of this Note, on behalf of the Sellers, is entitled to the benefits thereof.

**1. Payment; Prepayment.**

(a) Unless earlier paid, the entire outstanding principal balance and interest of this Note shall be payable on or before January 30, 2010. The Company shall have the right of prepayment on this Note.

(b) Payment of principal and interest on this Note shall be made by wire transfer of immediately available funds to an account designated by the Holder or by check sent to the Holder as the Holder may designate for such purpose from time to time by written notice to the Company, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

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(c) In the event that the Company completes an equity financing (the "Financing") that results in gross proceeds to the Company of over \$6,000,000 (including the amount of any financing raised in connection with the acquisition of AMV), then, within ten days of completion of such Financing, the Company shall prepay to Holder an amount equal to one-third of the excess of the gross proceeds of the Financing over \$6,000,000, provided that in no event shall such prepayment exceed the aggregate principal sum then outstanding under the Note, plus accrued interest thereon.

(d) If, prior to July 23, 2009, the Company completes a Financing that results in gross proceeds to the Company of over \$15,000,000 (which is in addition to the Financing described in subsection (c) above), then the Company shall prepay to Holder the entire aggregate principal sum then outstanding under the Note, plus accrued interest thereon, within ten days of completion of such Financing.

(e) If, prior to July 23, 2009 the entire aggregate principal sum then outstanding under the Note, plus accrued interest thereon, has not been prepaid in accordance with Sections 1(c) or 1(d), then on and after July 23, 2009, interest shall accrue on the unpaid principal balance of the Note at a rate of seven percent (7%) per annum until paid.

## **2. Default.**

(a) The occurrence of any one or more of the following events shall constitute an "Event of Default":

(i) Nonpayment. The Company shall fail to make, on or before the due date, in the manner required, any payment of principal, interest or any other sums due under this Note and the Company shall not have remedied such default within ten (10) days after notice of such default;

(ii) Other Defaults; Cure Period. The Company shall fail to observe or perform any of its covenants contained in this Note, and the Company shall have not remedied such default within ten (10) days after notice of such default;

(iii) Insolvency. The Company shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or the Company shall commence any voluntary bankruptcy proceeding, or there shall be commenced against the Company by another party any such case, proceeding or other action in bankruptcy which remains unstayed, undismissed or undischarged for a period of thirty (30) days; or

(iv) The Company shall be dissolved, liquidated or reorganized.

(b) Acceleration. Upon an Event of Default, the interest rate payable hereunder shall increase by four (4) percentage points and there shall immediately be due and payable to the Holder the full amount of the unpaid principal balance of this Note, plus accrued interest and all other amounts owed by the Company pursuant to this Note. All amounts under this Section 2 are due and payable without presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Company.

(c) Remedies Upon Event of Default.

(i) General. Upon an Event of Default, the Holder may proceed to protect and enforce its rights as holder of this Note, and may proceed to enforce the payment of all amounts due upon this Note, and the costs and expenses of collection (including, without limitation, reasonable attorneys fees and disbursements) or to enforce any other legal or equitable right as holder of this Note shall be paid by Company.

(ii) Remedies Cumulative. No remedy conferred in this Note upon the Holder is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

(iii) Remedies Not Waived. No course of dealing between the Company and the Holder, and no delay or failure in exercising any rights hereunder shall operate as a waiver of any of the rights of the Holder.

3. Subordination.

(a) The Company and the Holder, as trustee for the Sellers, agree that the indebtedness evidenced by this Note is subordinated in right of payment, to the extent and manner provided in this Section 3, to the prior payment in full of all Senior Debt, and that the subordination is for the benefit of all holders of Senior Debt.

(b) Upon any distribution to creditors of the Company or any of its subsidiaries in a liquidation or dissolution of the Company or any of its subsidiaries or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or any of its subsidiaries or any of the Company's or its subsidiaries' property, an assignment for the benefit of creditors or any marshalling of the Company's or its subsidiaries' assets and liabilities, holders of Senior Debt shall be entitled to receive payment in full of all obligations due in respect of such Senior Debt (including interest accruing after the commencement of any such proceeding at the rate specified in the applicable Senior Debt, whether or not allowed or allowable as a claim in such proceeding) before the Holder, as trustee for the Sellers, shall be entitled to receive any payment with respect to this Note, and until all obligations with respect to Senior Debt are paid in full, any distribution to which the Holder, as trustee for the Sellers, would be entitled shall be made to the holders of Senior Debt.

(c) Neither the Company nor any of its subsidiaries may make any payment pursuant to this Note if (i) a default in the payment of principal, premium, if any, or interest on Senior Debt occurs and is continuing beyond any applicable period of grace in the agreement or other document governing such Senior Debt, or (ii) any other default occurs and is continuing with respect to the Senior Debt that permits holders of the Senior Debt as to which such default relates to accelerate its maturity.

(c) In the event that the Holder or any Seller receives any payment of any obligations with respect to this Note at a time when the Holder or any Seller, as applicable, has actual knowledge that such payment is prohibited by this Section 3, such payment shall be held by Holder or any Seller in trust for the benefit of, and shall be paid forthwith over and delivered upon written request to, the holders of the Senior Debt for application to the payment of all obligations with respect to the Senior Debt remaining unpaid and to the extent necessary to pay such obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of the Senior Debt.

(d) For the purposes of this Section 3, "Senior Debt" shall mean that certain guaranty given as of February 12, 2008 by the Company to ValueAct SmallCap Master Fund, L.P. ("ValueAct") pursuant to which the Company guaranteed to ValueAct the payment by the Company of up to \$8,250,000 of principal under that certain Senior Secured Note issued by ValueAct to Twistbox Entertainment, Inc., a wholly-owned subsidiary of the Company, due January 30, 2010, dated July 30, 2007, as amended.

4. **Amendments and Waivers.** This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Company, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

5. **Replacement Note.** Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Note, and (in case of loss, theft or destruction) of indemnity reasonably satisfactory to it, and upon reimbursement to the Company of all reasonable expenses incidental thereto, and upon surrender and cancellation of any Note, if mutilated, the Company will make and deliver a new Note of like tenor in the principal amount of this Note then outstanding in lieu of such Note. Any Note so made and delivered shall be dated as of the date to which interest shall have been paid on the Note lost, stolen, destroyed or mutilated.

6. **Successors and Assigns.** This Note applies to, inures to the benefit of, and binds the successors and permitted assigns of the parties hereto.

7. **Governing Law and Venue.** The Note shall be construed in accordance with the laws of the State of New York. The Company hereby consents to the jurisdiction of and venue in any court of competent jurisdiction in the State of New York.

8. **Unenforceable Provision.** If any provision of this Note shall be deemed unenforceable under applicable law, such provision shall be ineffective, but only to the extent of such unenforceability, without invalidating the remainder of such provision or the remaining provisions of this Note.

9. **Notice.** Any notice to the Company provided for in this Note shall be in writing and shall be given and be effective upon (a) delivery to the Company, (b) receipt if sent by facsimile transmission (with confirmation of such receipt by the sender) or (c) mailing such notice by certified mail, return receipt requested, addressed to the Company at the Company's address stated below, or to such other address as the Company may designate by written notice to the Holder. Any notice to the Holder shall be in writing and shall be given and be effective upon (i) delivery to the Holder, (ii) receipt if sent by facsimile transmission (with confirmation of such receipt by the sender) or (iii) by mailing such notice by certified mail, return receipt requested, to the Holder at the address stated above, or to such other address as the Holder may designate by written notice to Company.

The Company:

Mandalay Media, Inc.  
2121 Avenue of the Stars, Suite 2550  
Los Angeles, California 90067  
Attention: James Lefkowitz  
Telephone: (310) 601-2500

with a copy to:

Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.  
666 Third Avenue  
New York, New York 10017  
Attention: Kenneth R. Koch, Esq.  
Fax: 212-983-3115

9. **Jury Trial Waiver.** Each of the Company and the Holder of this Note (by accepting this Note) hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of, under or in connection with this Note. Each of the Company and the Holder of this Note (by accepting this Note) (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to issue or accept this Note, as the case may be, by, among other things, the mutual waivers and certifications in this paragraph.

*[Remainder of page intentionally left blank. Signature page to follow.]*

IN WITNESS WHEREOF, the Company has caused this Note to be executed and dated the day and year first above written.

MANDALAY MEDIA, INC.

By: /s/ James Lefkowitz

Name: James Lefkowitz

Title: President

Acknowledged and agreed:

By: /s/ Nathaniel MacLeitch

Nathaniel MacLeitch

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## ESCROW AGREEMENT

ESCROW AGREEMENT, made as of the 23<sup>rd</sup> day of October, 2008, by and between Mandalay Media, Inc., a Delaware corporation (the “**Company**”), the investors listed on the Schedule of Investors attached hereto as Exhibit A (each individually, an “**Investor**” and collectively, “**Investors**”) and American Stock Transfer and Trust Company, LLC, as Escrow Agent (the “**Escrow Agent**”).

WITNESSETH:

WHEREAS, the Company is offering in a private placement (the “**Offering**”) a minimum of up to an aggregate of 1,685,393 shares (the “**Minimum Shares**”) of its common stock, \$0.0001 par value per share (“**Common Stock**”) and a maximum of up to an aggregate of 3,370,786 shares of Common Stock (the “**Maximum Shares**” and collectively with the Minimum Shares, the “**Shares**”), at a purchase price of \$2.67 per share (the “**Purchase Price**”) and warrants to purchase a maximum of up to an aggregate of 1,685,393 shares of Common Stock (the “**Warrants**”) (the Shares and the Warrants collectively, the “**Securities**”), pursuant to a Securities Purchase Agreement entered into by and among the Company and certain investors, as may be amended, modified or otherwise supplemented from time to time (the “**Purchase Agreement**”);

WHEREAS, the Company desires that all funds received in payment for the Securities from each Investor, as applicable (the “**Aggregate Subscription Payments**”) will be placed into a segregated account with the Escrow Agent (the “**Escrow Account**”) until such time as the release or return of such Aggregate Subscription Payments are required pursuant to Section 4 hereof;

WHEREAS, the Escrow Agent has consented to act as escrow agent in connection with the Offering, subject to the terms and conditions hereinafter set forth;

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

1. The Company hereby appoints the Escrow Agent to serve as escrow agent in connection with the Offering in accordance with the terms and conditions herein set forth, and the Escrow Agent hereby accepts such appointment.

2. Funds received from time to time from Investors in payment for the Securities for which they have subscribed pursuant to the Purchase Agreement (each such payment, a “**Subscription Payment**”) shall be deposited with the Escrow Agent as follows:

(a) The Company shall direct Investors to wire transfer each respective Subscription Payment, in immediately available funds, to:

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JP Morgan Chase Bank  
55 Water Street  
New York, NY  
ABA# 021 000 021  
Account # 323-062539  
Attention: Henry Reinhold

The Escrow Agent shall advise the Company in writing as to the name of each Investor from whom a Subscription Payment by wire transfer has been received, and shall notify the Company orally (confirming such notice in writing) when the Aggregate Subscription Payments so received equals or exceeds \$4,400,000.

3. The Escrow Account shall not be an interest-bearing account.

4. The Aggregate Subscription Payments to be held in the Escrow Account shall be subject to, and distributed to the Company in accordance with, the following provisions:

Following the receipt by the Escrow Agent of an amount of cash equal to or exceeding \$4,400,000, the Escrow Agent shall deliver the Aggregate Subscription Payments to the Company by wire transfer to the Company's designated account, as detailed below, upon the earliest of (a) delivery of written instructions from any of the Investors to the Escrow Agent directing the Escrow Agent to deliver the Aggregate Subscription Payments to the Company, (b) delivery of written notice from the Company to the Escrow Agent, advising that the Company had received lock-up agreements from its current stockholders in a number that is satisfactory to the Investors and directing the Escrow Agent to deliver the Aggregate Subscription Payments to the Company, and (c) 14 days after the Initial Closing Date, as defined below; provided, however, if an amount of cash equal to or exceeding \$4,400,000 has not been received by the Escrow Agent and deposited into the Escrow Account within 24 hours following the execution of this Agreement or if the Escrow Agent has refunded Subscription Payments to any of the Investors, then the Escrow Agent will promptly return to each of the Investors its respective Subscription Payment. "**Initial Closing Date**" shall mean the date of the initial closing of the transaction contemplated by the Purchase Agreement.

Company's account:

Bank:	1 <sup>st</sup> Century Bank 1875 Century Park East, Suite 1400 Los Angeles, CA 90067
ABA Number:	122-243-761
Account Number:	2100012273
Account Name:	Mandalay Media, Inc.

5. The Company shall promptly notify the Escrow Agent of any termination of the Offering.

6. To induce the Escrow Agent to act hereunder, the Company agrees that:

(a) Distribution of the Escrow Account pursuant to Section 4 of this Agreement by the Escrow Agent shall operate to divest all right, title, interest, claim, and demand, either at law or in equity, of any party to this Agreement (other than the distributee) in and to the Escrow Account and shall be a perpetual bar both at law and in equity as against the Escrow Agent and against any person claiming or attempting to claim such distributed Escrow Account from, through, or under the Escrow Agent.

(b) The Escrow Agent shall not be under any duty to give the monies held by it hereunder any greater degree of care than it gives its own similar property and shall not be required to invest any funds held hereunder except as directed in this Escrow Agreement. Uninvested funds held hereunder shall not earn or accrue interest.

(c) This Escrow Agreement expressly sets forth all the duties of the Escrow Agent with respect to any and all matters pertinent hereto. No implied duties or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent shall not be bound by the provisions of any agreement except this Escrow Agreement.

(d) The Escrow Agent shall not be liable, except for its own gross negligence or willful misconduct and, except with respect to claims based upon such gross negligence or willful misconduct that are successfully asserted against the Escrow Agent, the Company shall indemnify and hold harmless the Escrow Agent (and any successor Escrow Agent) from and against any and all losses, deficiencies, liabilities, claims, suits, actions, damages, settlements and expenses, including reasonable attorneys fees and disbursements, arising out of and in connection with this Escrow Agreement. Without limiting the foregoing, the Escrow Agent shall in no event be liable in connection with its investment or reinvestment of any cash held by it, if any, hereunder in good faith, in accordance with the terms hereof, including, without limitation, any liability for any delays (not resulting from gross negligence or willful misconduct) in any such investment or reinvestment of any Subscription Payment, or any loss of interest incident to any such delays.

(e) The Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity or the service thereof. The Escrow Agent may act in reliance upon any instrument or signature believed by it to be genuine and may assume that any person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so.

(f) The Escrow Agent may act pursuant to the advice of counsel with respect to any matter relating to this Escrow Agreement and shall not be liable for any action taken or omitted in accordance with such advice.

(g) The Escrow Agent does not have any interest in the amounts deposited hereunder but is serving as escrow holder only and having only possession thereof. The Company shall pay or reimburse the Escrow Agent upon request for any transfer taxes or other taxes relating to the escrowed property incurred in connection herewith and shall indemnify and hold harmless the Escrow Agent from any amounts that it is obligated to pay in the way of such taxes. Any payments of income from this Escrow Account shall be subject to withholding regulations then in force with respect to United States taxes. The parties hereto will provide the escrow agent with appropriate W-9 forms for tax I.D., number certifications, or W-8 forms for non-resident alien certifications. It is understood that the Escrow Agent shall be responsible for income reporting only with respect to income, if any, earned on investment of funds deposited in the Escrow Account and is not responsible for any other reporting. This Section 6(g) and Section 6(d) shall survive notwithstanding any termination of this Escrow Agreement or the resignation of the Escrow Agent.

(h) The Escrow Agent shall have no duties or responsibilities except those expressly set forth herein. The Escrow Agent shall not be bound by any notice of a claim, or demand with respect thereto, or any waiver, modification, amendment, termination, cancellation, or revision of this Agreement, unless in writing and signed by the other parties hereto and received by the Escrow Agent, and, if the Escrow Agent's duties as escrow agent hereunder are affected, unless the Escrow Agent shall have given its prior written consent thereto. The Escrow Agent shall not be bound by any assignment by the Company of its rights hereunder unless the Escrow Agent shall have received written notice thereof from the assignor. The Escrow Agent is authorized to comply with and obey laws, orders, judgments, decrees, and regulations of any governmental authority, court, tribunal, or arbitrator. If the Escrow Agent complies with any such law, order, judgment, decree, or regulation, the Escrow Agent shall not be liable to any of the parties hereto or to any other person even if such law, order, judgment, decree, or regulation is subsequently reversed, modified, annulled, set aside, vacated, found to have been entered without jurisdiction, or found to be in violation of or beyond the scope of a constitution or a law.

(i) If the Escrow Agent (i) shall be uncertain as to the Escrow Agent's duties or rights hereunder, (ii) shall receive any notice, advice, direction, or other document from any other party with respect to the Escrow Account which, in the Escrow Agent's opinion, is in conflict with any of the provisions of this Agreement, or with any notice, advice, direction or other document it has received from another party, or (iii) should be advised that a dispute has arisen with respect to the payment, ownership, or right of possession of the Escrow Account or any part thereof (or as to the delivery, non-delivery, or content of any notice, advice, direction, or other document), the Escrow Agent shall be entitled, without liability to anyone, to refrain from taking any action other than to use the Escrow Agent's best efforts to keep safely the Escrow Account until the Escrow Agent shall be directed otherwise in (x) a writing executed by each of the Company and the Investors or (y) by an order, decree, or judgment of a court of competent jurisdiction which has been finally affirmed on appeal or which by lapse of time or otherwise is no longer subject to appeal, but the Escrow Agent shall be under no duty to institute or to defend any proceeding, although the Escrow Agent may, in the Escrow Agent's discretion and at the expense of the Company as provided in Section 6(o), institute or defend such proceedings.

(j) The Escrow Agent makes no representation as to the validity, value, genuineness or the collectability of any security or other document or instrument held by or delivered to it.

(k) The Company authorizes the Escrow Agent, if threatened with litigation or sued, to interplead all interested parties in any court of competent jurisdiction and to deposit the Escrow Account with the clerk of that court.

(l) The Escrow Agent shall not be called upon to advise any party as to the wisdom in selling or retaining or taking or refraining from any action with respect to any securities or other property deposited hereunder.

(m) The Escrow Agent (and any successor Escrow Agent) may at any time resign as such by delivering the Aggregate Subscription Payments received by the Escrow Agent and all interest and other income earned thereon to any successor Escrow Agent designated by the Escrow Agent, in writing, or to any court of competent jurisdiction, whereupon the Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Escrow Agreement. The resignation of the Escrow Agent will take effect on the earlier of (i) the appointment of a successor (including a court of competent jurisdiction), or (ii) the day which is ten (10) days after the date of delivery of its written notice of resignation to the Company. If at that time the Escrow Agent has not designated a successor Escrow Agent, the Escrow Agent's sole responsibility after that time shall be to safekeep the Subscription Payments received by the Escrow Agent and all interest and other income earned thereon until receipt of a designation of successor Escrow Agent or a final order of a court of competent jurisdiction.

(n) The Escrow Agent shall have no responsibility for the contents of any writing of the arbitrators or any third party contemplated herein as a means to resolve disputes and may rely without any liability upon the contents thereof.

(o) The Company shall pay Escrow Agent \$2,500 for Escrow Agent's services hereunder.

(p) The Company hereby irrevocably submits to the jurisdiction of any New York State or federal court sitting in New York City in any action or proceeding arising out of or relating to this Escrow Agreement, and hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such a New York State or federal court, without regard to its rules respecting conflicts of law. The Company hereby consents to and grants to any such court jurisdiction over the Company and over the subject matter of any such dispute and agrees that delivery or mailing of any process or other papers in the manner provided herein, or in such manner as may be permitted by law, shall be valid and sufficient service thereof.

(q) No printed or other matter in any language (including, without limitation, prospectuses, notices, reports and promotional material) which mentions the Escrow Agent's name or the rights, powers, or duties of the Escrow Agent shall be issued by the Company or on the Company's behalf unless the Escrow Agent shall first have given its specific written consent thereto.

(r) The Company authorizes the Escrow Agent, for any securities held hereunder, if any, to use the services of any United States central securities depository it deems appropriate, including, but not limited to, the Depository Trust Company and the Federal Reserve Book Entry System.

(s) The Escrow Agent's responsibilities and liabilities hereunder, except as a result of the Escrow Agent's own bad faith or gross negligence, will terminate upon the delivery by the Escrow Agent of the Escrow Account under any provision of this Agreement.

7. This Escrow Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and assigns, and shall not be enforceable by or inure to the benefit of any third party except as provided in Section 6(m) with respect to a resignation by the Escrow Agent. No party may assign any of its rights or obligations under this Escrow Agreement without the written consent of the other party.

8. This Agreement may only be modified by a writing signed by the parties hereto, and no waiver hereunder shall be effective unless in writing and signed by the party to be charged.

9. This Escrow Agreement shall be construed in accordance with the laws of the State of New York, without regard to its rules respecting conflicts of laws. It may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one instrument.

10. Any notice, consent or request to be given in connection with any of the terms or provisions of this Escrow Agreement shall be in writing and shall be sent by certified mail, return receipt requested, or delivered against written receipt:

(a) if to the Escrow Agent, to:

American Stock Transfer and Trust Company, LLC  
59 Maiden Lane  
New York, NY 10038  
Attention: Henry Reinhold  
Telephone: 718-921-8225  
Facsimile: 718-234-5001

(b) if to the Company, to:

Mandalay Media, Inc.  
c/o Trinad Capital, L.P.  
2121 Avenue of the Stars, Suite 2550  
Los Angeles, California 90067  
Telephone: 310-601-2500  
Facsimile: 310-277-2741

(c) if to the Investors, to:

ValueAct SmallCap Master Fund, L.P.  
435 Pacific Avenue, 4<sup>th</sup> Fl.  
San Francisco, CA 94133  
Attention: Jimmy Price

Trinad Capital Master Fund, Ltd.  
2121 Avenue of the Stars, Suite 2550  
Los Angeles, California 90067  
Attention: Jay Wolf

Guber Family Trust  
c/o Peter Guber  
4751 Wilshire Boulevard  
3<sup>rd</sup> Floor  
Los Angeles, CA 90010

Any notice, consent or request given by certified mail shall be deemed given at the time of certification thereof.

11. This Agreement shall terminate upon the date on which the Aggregate Subscription Payments have been fully disbursed from the Escrow Account in accordance with Section 4 of this Escrow Agreement.

[Signature page to follow]

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

AMERICAN STOCK TRANSFER AND TRUST COMPANY,  
LLC

By: /s/ Herbert J. Lemmer  
Name: Herbert J. Lemmer  
Title: Vice President

MANDALAY MEDIA, INC.

By: /s/ James Lefkowitz  
Name: James Lefkowitz  
Title: President

INVESTORS:

ValueAct SmallCap Master Fund, L.P.  
By VA Smallcap Partners, LLC, its General Partner

By: /s/ David Lockwood  
Name: David Lockwood  
Title: Managing Member

Trinad Capital Master Fund, Ltd.

By: /s/ Robert Ellin  
Name: Robert Ellin  
Title: Director

Guber Family Trust

By: /s/ Peter Guber  
Name: Peter Guber  
Title: Trustee

**[Signature Page to Escrow Agreement]**

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## MANDALAY MEDIA COMPLETES \$22.8 MILLION ACQUISITION OF AMV HOLDING LIMITED AND SECURES \$4.5 MILLION EQUITY FINANCING

### Combination of AMV and Twistbox Creates Next Generation Mobile Media and Marketing Company

**LOS ANGELES** - (October 27, 2008) - **Mandalay Media, Inc.** (MNDL.OB) (the "Company") announced today the completion of the acquisition of **AMV Holding Limited** ("AMV"), a European leader in direct-to-consumer mobile Internet content and services. The Company paid \$10.75 million in a combination of cash and the issuance of a promissory note, as well as delivered an aggregate of 4.5 million shares of the Company based on the value of \$2.67 per share. Concurrent with the closing of the acquisition, the Company secured a \$4.5 million equity financing at \$2.67 per share, which includes 50% warrant coverage with each warrant having an exercise price of \$2.67 per share. Further details of the transactions will be available in a Current Report on Form 8-K, to be filed by the Company with the Securities and Exchange Commission. AMV will be integrated with Mandalay Media's mobile subsidiary, **Twistbox Entertainment, Inc.** ("Twistbox"). Together Twistbox and AMV will employ over 200 people, with offices in the United States, United Kingdom, Germany, Poland, Russia, Mexico and Brazil. AMV's UK offices in Marlow will serve as the Company's European mobile headquarters.

Twistbox and AMV have a combined distribution and reach in excess of 1.2 billion mobile devices. On a monthly basis, the Company's current services and destinations represent a growing base of more than three million mobile subscribers and in excess of 100 million page views. On a pro forma basis for the six months ending March 31, 2009 (i.e., the second half of the Company's fiscal year), combined revenues are expected to be in excess of \$30 million, with EBITDA (excluding stock option expense) of approximately \$4 million. The forward looking pro forma estimates are based on April 1, 2008 to September 30, 2008 historical operating results for both AMV and Twistbox and do not include anticipated operating efficiencies or synergies.

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“The acquisition of AMV allows us to almost triple our monthly mobile revenue while gaining the scale and profitability to be a worldwide force in the expansive mobile content arena,” said Bruce Stein, CEO of Mandalay Media. “Mobile is the first of several digital media businesses that Mandalay plans to build. The combination of Twistbox and AMV is a great example of what our team and platform is capable of creating in just eight months.”

“The combination of Twistbox’s global on-deck distribution with AMV’s direct-to-consumer expertise uniquely positions Mandalay Media to deliver compelling consumer propositions while maximizing revenues for its wireless operator and content partners,” stated Twistbox CEO Ian Aaron. “AMV’s Founders and Managing Directors Nate MacLeitch and Jack Cresswell have demonstrated over the past four years their ability to drive both growth and profitability in a rapidly developing European mobile market while positioning AMV as a leader and innovator in marketing mobile internet services.”

“This is a great opportunity to take our direct-to-consumer business to the next level,” stated Nate MacLeitch. “We are excited about the opportunity to accelerate our revenue growth by taking our proven products and mobile marketing capabilities into Twistbox territories including the United States, Europe, Latin America and Asia and enhance our offering with Twistbox’s stable of leading consumer branded content and partnerships. We see a great opportunity in these market conditions to leverage the platform created by Mandalay Media to grow our business organically and through other strategic acquisitions.”

**About AMV Holding Limited:**

AMV is a leading mobile media and marketing company delivering games and lifestyle content directly to consumers in the United Kingdom, Australia, South Africa and various other European countries. AMV markets its well established branded services including *Bling*, *Phonebar* and *GameZone* through a unique Customer Relationship Management (CRM) platform that drives revenue through mobile internet, print and TV advertising. For more information, please visit [www.amvholding.com](http://www.amvholding.com).

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**About Twistbox Entertainment, Inc.:**

Twistbox is a leading global producer and publisher of mobile entertainment. Twistbox has exclusive licenses with industry-leading brands, direct distribution with more than 120 wireless operators in over 45 countries and provides an extensive portfolio of award-winning games, WAP sites and mobile TV channels. For more information, please visit [www.twistbox.com](http://www.twistbox.com).

**About Mandalay Media, Inc.:**

Managed by leading media and technology industry executives, the Company's mission is to build a unique combination of new media distribution and content companies through acquisitions with domestic and foreign businesses with strong management teams and historical financial performance. For more information, please visit [www.mandalaymedia.com](http://www.mandalaymedia.com).

**Safe Harbor:**

This press release contains forward-looking statements about the Company within the meaning of the Private Securities Litigation Reform Act of 1995. Statements including words such as "estimate", "expect", "anticipate" or "believe" and statements in the future tense are forward-looking statements. These forward-looking statements are subject to risks and uncertainties that could cause actual events or actual future results to differ materially from the expectations set forth in the forward-looking statements. Some of the factors which could cause the Company's results to differ materially from the expectations include the following: consumer demand for the Company's products; consumer spending trends; fluctuations in the currencies of the countries in which the Company operates against the US dollar; timely development and release of the Company's products; competition in the industry; the Company's ability to manage expenses; the Company's ability to manage and sufficiently integrate acquisitions of other companies; adverse changes in the securities markets; and other factors described in our filings with the SEC, including our Annual Report on Form 10-KT for the transition period from January 1, 2008 to March 31, 2008. The Company does not undertake, and specifically disclaim any obligation, to release publicly the results of any revisions that may be made to any forward-looking statements to reflect the occurrence of anticipated or unanticipated events or circumstances after the date of such statements.

**Contacts:**

Mandalay Media  
+1-310-601-2500  
Bruce Stein  
CEO  
[bstein@mandalaymedia.com](mailto:bstein@mandalaymedia.com)

or

Twistbox Entertainment  
+1-818-301-6222  
Ian Aaron  
President/CEO  
[ian@twistbox.com](mailto:ian@twistbox.com)

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