MICHAEL BAKER CORP
Form SC 13D/A
August 02, 2013

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

Schedule 13D

Under the Securities Exchange Act of 1934

(Amendment No. 3)*
Michael Baker Corporation
(Name of Issuer)
Common stock, par value $1.00 per share
(Title of Class of Securities)
057149106
(CUSIP Number)

Thomas J. Campbell
c/o DC Capital Partners, LLC
11 Canal Center Plaza, Suite 350
Alexandria, VA 22314
(202) 737-5220

with a copy to:

Kevin J. Lavin

J. Matthew Owens

Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004

(202) 942-5000
(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

July 29, 2013
(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ¨

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be “filed” for the purpose of Section 18 of the Securities Exchange Act of 1934 (“Act”) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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1	NAMES OF REPORTING PERSONS Thomas J. Campbell	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) ¨ (b) ¨	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions) PF	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(D) OR 2(E) ¨	
6	CITIZENSHIP OR PLACE OF ORGANIZATION United States	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 498,121
	8	SHARED VOTING POWER 0
	9	SOLE DISPOSITIVE POWER 498,121
	10	SHARED DISPOSITIVE POWER 0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 498,121	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN	

	SHARES (See Instructions) ..
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 5.18%
14	TYPE OF REPORTING PERSON (See Instructions) IN

Item 1. Security and Issuer.

This statement constitutes Amendment No. 3 to the Schedule 13D relating to the common stock, par value $1.00 per share (the "Shares") of Michael Baker Corporation (the "Issuer") and hereby amends the Schedule 13D filed with the Securities and Exchange Commission ("SEC") on July 18, 2012 and the amendments filed with the SEC on December 19, 2012 and February 7, 2013 (collectively, the "Schedule 13D"), on behalf of the Reporting Person (as defined below), to furnish the additional information set forth herein. All capitalized terms contained herein but not otherwise defined shall have the meanings ascribed to such terms in the Schedule 13D.

Item 2. Identity and Background.

Item 2 of the Schedule 13D is hereby amended by replacing the first paragraph with the following:

This Schedule 13D is being filed by Thomas J. Campbell (the "Reporting Person"). Mr. Campbell's principal business address is c/o DC Capital Partners, LLC, 11 Canal Center Plaza, Suite 350, Alexandria, VA 22314. Mr. Campbell is the President and Founder of DC Capital Partners, LLC, an investment firm headquartered in Washington, DC, focused on making investments in the U.S. federal and state government services markets. He is also the Chairman and, through entities he controls, the majority owner of (i) KS International LLC ("KSI"), a global provider of mission critical engineering, construction and development services and solutions to the U.S. federal government; (ii) Integrated Mission Solutions, LLC ("IMS"), the parent company to KSI, and (iii) a number of other companies that provide services to the U.S. federal government.

Item 3. Source and Amount of Funds or Other Consideration.

Item 3 of the Schedule 13D is hereby amended and supplemented by adding the following at the end thereof:

Concurrently, and in connection with entering into the Merger Agreement described in Item 4, the Reporting Person entered into an Equity Commitment Letter for the benefit of IMS, and Jefferies Finance LLC ("Jefferies") and IMS entered into a Debt Commitment Letter. The descriptions of the Equity Commitment Letter and Debt Commitment

Letter in Item 4 are incorporated herein by reference.

Item 4. Purpose of Transaction.

Item 4 of the Schedule 13D is hereby amended by the deletion of the last paragraph and the addition of the following:

IMS entered into a Confidentiality Agreement with the Issuer on January 31, 2013.

On July 29, 2013, the Issuer entered into an Agreement and Plan of Merger (the "Merger Agreement") with IMS and Project Steel Merger Sub, Inc., a wholly owned subsidiary of IMS ("Merger Sub").

Pursuant to the Merger Agreement, and upon the terms and subject to the conditions thereof, Merger Sub will commence a cash tender offer (the "Offer") to purchase all of the outstanding shares of the Issuer's common stock, par value $1.00 per share (the "Issuer Common Stock"), at a price per share of $40.50 (the "Offer Price"), net to the seller in cash, without interest and subject to any applicable tax withholding.

Under the terms of the Merger Agreement, the Issuer has granted Merger Sub an irrevocable option (the "Top-Up Option"), exercisable only upon the terms and subject to the conditions set forth therein, to purchase a number of shares of Issuer Common Stock equal to the lowest number of shares that, when added to the number of shares owned by IMS and Merger Sub after the completion of the Offer, will constitute one share more than 80% of Issuer Common Stock outstanding on a fully diluted basis in order to facilitate completion of the merger of Merger Sub into the Issuer (the "Merger") under Pennsylvania law. The parties have agreed that if after the purchase of shares of Issuer Common Stock pursuant to the Offer and any subsequent offering period, and after giving effect to any shares of Issuer Common Stock purchased pursuant to the Top-Up Option, Merger Sub owns at least 80% of the outstanding shares of Issuer Common Stock, then once the other conditions to completion of the Merger are satisfied or waived, Merger Sub will merge with and into the Issuer pursuant to a "short-form" merger in accordance with Pennsylvania law.

Upon the effective time of the Merger, each share of the Issuer Common Stock not purchased in the Offer (except for shares held by shareholders who duly exercise their appraisal rights under Pennsylvania law in connection with a "short form" merger) will be canceled and converted into the right to receive the Offer Price (other than shares held by the Issuer as treasury stock, held by a wholly owned subsidiary of the Issuer or held by IMS or Merger Sub, which will be canceled without consideration).

Consummation of the Offer is subject to customary conditions, including, among others, (i) the valid tender of the number of shares that would represent at least a majority of the outstanding shares of Issuer Common Stock, (ii) the expiration or early termination of the waiting period applicable to the consummation of the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, (iii) the absence of certain legal impediments to the consummation of the Merger, and (iv) the absence of any change, event or occurrence that has had or would reasonably be expected to have a material adverse effect on the Issuer. The Offer is not subject to a financing condition.

The aggregate amount required by IMS and Merger Sub to pay the consideration in connection with the transactions contemplated by the Merger Agreement is approximately $396.9 million. It is anticipated that, in addition to existing unrestricted cash on the balance sheet of each of IMS and the Issuer, the financing for the transactions contemplated by the Merger Agreement will consist of (i) equity financing to be contributed to IMS by the Reporting Person in the form of cash and (ii) debt financing arranged by IMS, each as described in further detail below.

The Merger Agreement provides for certain commitments by IMS to the Issuer's future operations. As described in Schedule 3.01 to the Merger Agreement, IMS will offer three members of the Issuer's existing board of directors the right to be nominated and elected as managers of IMS. In addition, these managers will have consent rights for three years over any decision by IMS that is inconsistent with certain commitments made under the Merger Agreement,

which include (i) maintaining the Issuer's headquarters in Moon Township, Pennsylvania, (ii) retaining the name "Michael Baker Corporation", (iii) to the extent commercially reasonable, (y) maintaining the Issuer's current staffing levels at its business locations, and (z) continuing corporate support provided to charitable organizations.

If the transactions contemplated by the Merger Agreement are consummated, the Shares will no longer be traded on the New York Stock Exchange and the Shares will cease to be registered under the Act, and the Issuer will be a wholly owned subsidiary of IMS.

The foregoing description of the Merger Agreement is qualified in its entirety by reference to the full text of the Merger Agreement, a copy of which is attached hereto as Exhibit 4 and is incorporated herein by reference.

Equity Commitment Letter

On July 29, 2013, the Reporting Person entered into an equity commitment letter with IMS (the "Equity Commitment Letter") in connection with the transactions contemplated by the Merger Agreement. The Reporting Person agreed under the Equity Commitment Letter to contribute an aggregate amount of $52.5 million in cash (as the same may be reduced in accordance with the terms and conditions of the Equity Commitment Letter), subject to certain conditions, for the purpose of funding the consideration to be paid in connection with the Offer and/or the Merger, as applicable, pursuant to, and in accordance with the terms of, the Merger Agreement.

The foregoing description of the Equity Commitment Letter is qualified in its entirety by reference to the full text of the Equity Commitment Letter, a copy of which is attached hereto as Exhibit 5 and is incorporated herein by reference.

Debt Commitment Letter

Also in connection with the transactions contemplated by the Merger Agreement, IMS has obtained commitments for debt financing, consisting of a combination of (i) up to $70.0 million of borrowings under a $100.0 million senior secured first lien asset based revolving credit facility and (ii) the issuance and sale of privately placed senior secured notes (the "Notes") yielding gross proceeds of $340.0 million (or, if such an offering of the Notes is not consummated prior to, or concurrently with, the consummation of the Offer, the drawdown of senior secured increasing rate term loans under a senior secured bridge loan facility in an aggregate principal amount of $340.0 million), in each case, (a) subject to modification as set forth in a debt commitment letter with Jefferies (the "Debt Commitment Letter") and (b) for the purposes of paying the consideration to be paid in connection with the transactions contemplated under the Merger Agreement, refinancing substantially all of the existing indebtedness for borrowed money of IMS and the Issuer, and paying related fees, commissions and expenses. The Debt Commitment Letter expires on the earliest of November 29, 2013, the termination or abandonment of the Merger Agreement, the closing of the transactions contemplated by the Merger Agreement, and the acceptance by the Issuer or any of its affiliates (or any of their respective equityholders) of an offer for all or any substantial part of the capital stock or property and assets of the Issuer and its subsidiaries (or any parent company thereof) other than as a part of the transactions described herein. In addition, Jefferies's commitment under the Debt Commitment Letter to provide bridge loans terminates upon the closing of the sale of the Notes (in escrow or otherwise).

Additional sources for financing the Offer will be at least $87.0 million of existing unrestricted cash on the balance sheet of the Issuer, at least $15.0 million of existing unrestricted cash on the balance sheet of IMS and the financing described in the Equity Commitment Letter.

The foregoing description of the Debt Commitment Letter is qualified in its entirety by reference to the full text of the Debt Commitment Letter, a copy of which is attached hereto as Exhibit 6 and is incorporated herein by reference.

Facilitation Agreement

Concurrently with the execution of the Merger Agreement, the Reporting Person entered into a facilitation agreement (the "Facilitation Agreement") with IMS, Merger Sub and the Issuer, pursuant to which the Reporting Person agreed to, among other things, cause DC Capital Partners, LLC and its affiliates to vote at a meeting of the members of IMS (or to execute and deliver written consents) to approve the Merger Agreement and the transactions contemplated thereby. The Reporting Person also granted the Issuer a limited irrevocable proxy to vote his shares of the Issuer Common Stock at any annual or special meeting of the shareholders of the Issuer, or any adjournment thereof, solely for the adoption of the Merger Agreement and the approval of the Merger, including each other action, agreement and transaction in furtherance of the Offer, the Merger Agreement, the Merger and the Facilitation Agreement. In addition, the Reporting Person agreed, in exchange for the Offer Price, to tender his shares of the Issuer Common Stock to Merger Sub in the Offer at least ten days prior to the Initial Expiration Time (as defined in the Merger Agreement) pursuant to and in accordance with the terms of the Offer. The Reporting Person also agreed to comply with certain restrictions on the disposition of his shares of the Issuer Common Stock, subject to the terms and conditions contained in the Facilitation Agreement.

The foregoing description of the Facilitation Agreement is qualified in its entirety by reference to the Facilitation Agreement, a copy of which is included as Exhibit 7 and is incorporated by reference herein.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Item 6 of the Schedule 13D is hereby amended and supplemented by adding the following at the end thereof:

On July 29, 2013, IMS, Merger Sub and the Issuer entered into the Merger Agreement. Concurrently with the execution of the Merger Agreement: (i) IMS and Jefferies entered into the Debt Commitment Letter; (ii) the Reporting Person and IMS entered into the Equity Commitment Letter; and (iii) the Reporting Person, IMS, Merger Sub and the Issuer entered into the Facilitation Agreement.

The descriptions in Item 4 of this Schedule 13D of the agreements listed in this Item 6 are incorporated herein by reference. The summaries of certain provisions of such agreements in this Schedule 13D are not intended to be complete and are qualified in their entirety by reference to the full text of such agreements. The agreements listed in this Item 6 are filed herewith as Exhibits 4 through 7 and are incorporated herein by reference.

Item 7. Material to be Filed as Exhibits

Exhibit	**Document**
4*	Agreement and Plan of Merger by and among Integrated Mission Solutions, LLC, Project Steel Merger Sub, Inc. and Michael Baker Corporation, dated July 29, 2013
5	Equity Commitment Letter by Thomas J. Campbell in favor of Integrated Mission Solutions, LLC, dated July 29, 2013
6	Debt Commitment Letter by and between Jefferies Finance LLC and Integrated Mission Solutions, LLC, dated July 29, 2013
7	Facilitation Agreement, by and among Michael Baker Corporation, Integrated Mission Solutions, LLC, Project Steel Merger Sub, Inc. and Thomas J. Campbell, dated July 29, 2013

*Certain schedules and exhibits to this agreement, with the exception of Schedule 3.01, have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished to the SEC upon request.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: August 2, 2013

By: /s/ Thomas J. Campbell
Thomas J. Campbell

*By Kevin J. Lavin, attorney-in-fact

Exhibit Index

Exhibit	Document
4*	Agreement and Plan of Merger by and among Integrated Mission Solutions, LLC, Project Steel Merger Sub, Inc. and Michael Baker Corporation, dated July 29, 2013
5	Equity Commitment Letter by Thomas J. Campbell in favor of Integrated Mission Solutions, LLC, dated July 29, 2013
6	Debt Commitment Letter by and between Jefferies Finance LLC and Integrated Mission Solutions, LLC, dated July 29, 2013
7	Facilitation Agreement, by and among Michael Baker Corporation, Integrated Mission Solutions, LLC, Project Steel Merger Sub, Inc. and Thomas J. Campbell, dated July 29, 2013

*Certain schedules and exhibits to this agreement, with the exception of Schedule 3.01, have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished to the SEC upon request.

Exhibit 4

EXECUTION VERSION

AGREEMENT AND PLAN OF MERGER

by and among

MICHAEL BAKER CORPORATION,

INTEGRATED MISSIONS SOLUTIONS, LLC

and

PROJECT STEEL MERGER SUB, INC.

Dated as of July 29, 2013

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AGREEMENT AND PLAN OF MERGER

This is an AGREEMENT AND PLAN OF MERGER (this "**Agreement**"), dated as of July 29, 2013, by and among Michael Baker Corporation, a Pennsylvania corporation (the "**Company**"), Integrated Mission Solutions, LLC, a Delaware limited liability company ("**Parent**"), and Project Steel Merger Sub, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("**Merger Sub**"). Capitalized terms used in this Agreement and not defined where first used have the respective meanings ascribed to them in Annex A.

The parties to this Agreement intend that, upon the terms and subject to the conditions set forth in this Agreement, Merger Sub be merged with and into the Company, with the Company surviving the Merger as a wholly owned Subsidiary of Parent (the "**Merger**"). To this end, Merger Sub has agreed to commence a tender offer (as it may be amended from time to time as permitted by this Agreement, the "**Offer**") to purchase all of the outstanding shares of Common Stock at a price per share of $40.50 (such amount, or any greater amount per share paid pursuant to the Offer and this Agreement, the "**Offer Price**"), net to the seller in cash, on the terms and subject to the conditions set forth herein.

The Board of Directors of the Company has, by resolutions duly adopted, (i) determined that this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement are advisable and are fair to the Company's shareholders and in the best interests of the Company, (ii) approved this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement, (iii) recommended that the holders of shares of Common Stock accept the Offer and tender their shares of Common Stock pursuant to the Offer, (iv) proposed the Merger in accordance with Section 1922 of the PBCL by adopting a resolution approving this Agreement as a plan of merger for the purposes of Section 1922 of the PBCL, (v) directed that, if required pursuant to this Agreement, this Agreement be submitted to a vote at a meeting of the Company's shareholders entitled to vote hereon and (vi) recommended that the Company's shareholders entitled to vote hereon approve this Agreement (including approval of this Agreement by the shareholders entitled to vote thereon so that this Agreement is adopted for the purposes of Section 1924 of the PBCL) at any meeting of the Company's shareholders held for such purpose.

The Board of Directors of each of Parent and Merger Sub has approved this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement.

Concurrent with the execution and delivery of this Agreement, Parent, Merger Sub, and certain other of their Affiliates that beneficially own in the aggregate 498,121 shares of Common Stock, are executing and delivering a Facilitation Agreement with respect to certain matters relating to the Offer, the Merger and the other transactions contemplated by this Agreement.

The Company, Parent and Merger Sub, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, agree as follows:

ARTICLE 1

THE OFFER AND THE MERGER

Section 1.01. *The Offer*.

(a) On or prior to August 30, 2013, Merger Sub shall (and Parent shall cause Merger Sub to) commence (within the meaning of Rule 14d-2 under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "**Exchange Act**")) the Offer.

(b) The obligation and right of Merger Sub to accept for payment and pay for any shares of Common Stock validly tendered and not validly withdrawn pursuant to the Offer shall be subject to: (i) there being validly tendered in the Offer (and not validly withdrawn) prior to any then scheduled Expiration Time that number of shares of Common Stock which, together with the shares beneficially owned by Parent or Merger Sub, represents at least a majority of the Common Stock then outstanding (determined on a fully diluted basis (which assumes conversion or exercise of all derivative securities regardless of the conversion or exercise price, the vesting schedule or other terms and conditions thereof)) (the "**Minimum Condition**"), and (ii) the satisfaction, or waiver by Parent or Merger Sub (to the extent permitted hereby), of the other conditions and requirements set forth in Exhibit A (together with the Minimum Condition, the "**Offer Conditions**"). Subject to the prior satisfaction of the Minimum Condition and the satisfaction, or waiver by Parent or Merger Sub, of the other Offer Conditions, Merger Sub shall (and Parent shall cause Merger Sub to) consummate the Offer in accordance with its terms and accept for payment and pay for all shares of Common Stock validly tendered and not validly withdrawn pursuant to the Offer as promptly as practicable after the Expiration Time. The conditions to the Offer set forth in Exhibit A are for the sole benefit of Parent and Merger Sub and may be asserted by Parent or Merger Sub regardless of the circumstances (including any action or inaction by Parent or Merger Sub, provided that nothing therein shall relieve any party hereto from any obligation or liability such party has under this Agreement) giving rise to such condition or may be waived by Parent or Merger Sub, in their sole discretion, in whole or in part at any time and from time to time, subject to this Section 1.01. The Offer Price payable in respect of each share of Common Stock validly tendered and not validly withdrawn pursuant to the Offer shall be paid net to the seller in cash, without interest, subject to any withholding of Taxes pursuant to Section 4.02(i).

(c) The Offer shall be made by means of an offer to purchase (the "**Offer to Purchase**") that includes the terms and conditions of the Offer as set forth in this Agreement, including the Offer Conditions. Parent and Merger Sub reserve the right to waive, in whole or in part, any Offer Condition (other than the Minimum Condition), to increase the Offer Price or to make any other changes in the terms and conditions of the Offer; provided, however, that unless otherwise provided by this Agreement or as previously approved in writing by the Company, Merger Sub shall not (i) reduce the number of shares of Common Stock subject to the Offer, (ii) reduce the Offer Price, (iii) change, modify or waive the Minimum Condition, (iv) add to the conditions set forth in Exhibit A or modify or change any Offer Condition in a manner adverse to any shareholders of the Company, (v) except as otherwise provided in this Section 1.01, extend or otherwise change the expiration date of the Offer, (vi) change the form of consideration payable in the Offer or (vii) otherwise amend, modify or supplement any of the terms of the Offer in a manner adverse to any shareholder of the Company.

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(d) The Offer shall expire at midnight (New York City, New York time) on the date that is 20 Business Days following the commencement (within the meaning of Rule 14d-2 under the Exchange Act) of the Offer (the "**Initial Expiration Time**") or, in the event the Initial Expiration Time has been extended pursuant to this Agreement, the date and time to which the Offer has been so extended (the Initial Expiration Time, or such later date and time to which the Initial Expiration Time has been extended pursuant to this Agreement, is referred to as the "**Expiration Time**").

(e) Unless this Agreement has been terminated in accordance with its terms: (i) if on or prior to any then scheduled Expiration Time, all of the conditions to the Offer (including the Minimum Condition and the other Offer Conditions) have not been satisfied or, to the extent waivable by Parent or Merger Sub pursuant to this Agreement, waived by Parent or Merger Sub, then Merger Sub (A) may (and in such case Parent shall cause Merger Sub to) extend the Offer for successive periods of up to ten Business Days each (or such longer period of up to 20 Business Days if the Company consents in writing prior to such extension), the length of each such period to be determined by Parent in its sole discretion, in order to permit the satisfaction of such conditions; and (B) shall (and Parent shall cause Merger Sub to) extend the Offer on one occasion for a period of up to seven Business Days if requested by the Company; (ii) Merger Sub may (and in such case Parent shall cause Merger Sub to) extend the Offer on one occasion at the Initial Expiration Time for a period of up to ten Business Days if the Debt Financing or Alternative Financing has not actually been received by Merger Sub or Parent, and the Debt Financing Sources have not definitively and irrevocably confirmed in writing to Parent and Merger Sub that the Debt Financing (or Alternative Financing) in an amount sufficient (together with the Equity Financing and cash available to the Company) to consummate the Offer and the Merger shall be available at the Offer Closing on the terms set forth in the Debt Financing Letter and subject only to the satisfaction of the Offer Conditions (and contribution by Parent or Merger Sub of the proceeds of the Equity Financing); and (iii) Merger Sub shall (and Parent shall cause Merger Sub to) extend the Offer for any period or periods required by applicable Law or applicable rules, regulations, interpretations or positions of the Securities and Exchange Commission or its staff (the "**SEC**"); provided, however, that, in any case in this Section 1.01(e), Merger Sub shall not be required to extend the Offer beyond November 29, 2013 (the "**Outside Date**") and shall not be permitted to extend the Offer beyond the Outside Date without the Company's consent.

(f) On the terms and subject to the conditions of this Agreement, Merger Sub shall, and Parent shall cause Merger Sub to, accept and pay for (subject to any withholding of tax pursuant to Section 4.02(i)) all shares of Common Stock validly tendered and not validly withdrawn pursuant to the Offer as promptly as practicable after the Expiration Time (as it may be extended and re-extended in accordance with this Section 1.01). Acceptance for payment of shares of Common Stock pursuant to and subject to the Offer Conditions upon the Expiration Time is referred to in this Agreement as the "**Offer Closing**," and the date on which the Offer Closing occurs is referred to in this Agreement as the "**Offer Closing Date**." Merger Sub expressly reserves the right to, in its sole discretion, following the Offer Closing, extend the Offer for a "subsequent offering period" (and one or more extensions thereof) in accordance with Rule 14d-11 under the Exchange Act, and the Offer Documents (as defined below) may, in Merger Sub's sole discretion, provide for such a reservation of right. Nothing contained in this Section 1.01 shall affect any termination rights in Article 9.

(g) Merger Sub shall not terminate the Offer prior to any scheduled Expiration Time without the prior written consent of the Company, except in the event that this Agreement is terminated pursuant to Article 9. If the Offer is terminated or withdrawn by Merger Sub in accordance with the terms of this Agreement, or if this Agreement is terminated pursuant to Article 9, prior to the acceptance for payment of the Common Stock tendered in the Offer, Merger Sub shall promptly return, and shall cause any depository acting on behalf of Merger Sub to return, in accordance with applicable Law, all tendered Common Stock to the registered holders thereof.

(h) As soon as practicable on the date of the commencement of the Offer, Parent and Merger Sub shall file with the SEC a Tender Offer Statement on Schedule TO with respect to the Offer (together with all amendments, supplements and exhibits thereto, the "**Schedule TO**"). The Schedule TO shall include, as exhibits, the Offer to Purchase and a form of letter of transmittal and summary advertisement, if any (such Schedule TO and the documents included therein pursuant to which the Offer shall be made, together with any amendments and supplements thereto, the "**Offer Documents**"). The Company shall promptly furnish to Parent and Merger Sub all information concerning the Company required by the Exchange Act to be set forth in the Offer Documents. Parent and Merger Sub agree to take all steps necessary to cause the Offer Documents to be filed with the SEC and disseminated to the shareholders of the Company, in each case as and to the extent required by the Exchange Act. Parent and Merger Sub, on the one hand, and the Company, on the other hand, agree to promptly correct any material information provided by it for use in the Offer Documents if and to the extent that such information shall have become false or misleading in any material respect or as otherwise required by applicable Law. Parent and Merger Sub further agree to take all steps necessary to cause the Offer Documents, as so corrected (if applicable), to be filed with the SEC and disseminated to the shareholders of the Company, in each case as and to the extent required by the Exchange Act. Parent and Merger Sub shall promptly notify the Company upon the receipt of any comments from the SEC, or any request from the SEC for amendments or supplements, to the Offer Documents, and shall promptly provide the Company with copies of all correspondence between them and their representatives, on the one hand, and the SEC, on the other hand. Prior to the filing of the Offer Documents (including any amendments or supplements thereto) with the SEC or dissemination thereof to the shareholders of the Company, or responding to any comments of the SEC with respect to the Offer Documents, Parent and Merger Sub shall provide the Company and its counsel a reasonable opportunity to review and comment on such Offer Documents or response, and Parent and Merger Sub shall give reasonable consideration to any such comments.

(i) Parent shall provide or cause to be provided to Merger Sub, on a timely basis, the funds necessary to pay for any shares of Common Stock that Merger Sub becomes obligated to accept for payment, and pay for, pursuant to the Offer.

Section 1.02. *Company Actions*.

(a) On the date the Offer Documents are filed with the SEC, the Company shall file with the SEC a Solicitation/Recommendation Statement on Schedule 14D-9 with respect to the Offer (together with all amendments, supplements and exhibits thereto, the "**Schedule 14D-9**") that shall, subject to the terms hereof, including the provisions of Section 7.02, contain the Company Recommendation. The Company agrees to take all steps necessary to cause the Schedule 14D-9 to be prepared and filed with the SEC and disseminated to the shareholders of the Company, in each case as and to the extent required by the Exchange Act. Parent and Merger Sub shall promptly furnish to the Company all information concerning Parent and Merger Sub required by the Exchange Act to be set forth in the Schedule 14D-9. The Company, on the one hand, and Parent and Merger Sub, on the other hand, agree to promptly correct any material information provided by it for use in the Schedule 14D-9 if and to the extent that such information shall have become false or misleading in any material respect or as otherwise required by applicable Law. The Company further agrees to take all steps necessary to cause the Schedule 14D-9, as so corrected (if applicable), to be filed with the SEC and disseminated to the shareholders of the Company, in each case as and to the extent required by the Exchange Act. The Company shall promptly notify Parent and Merger Sub upon the receipt of any comments from the SEC, or any request from the SEC for amendments or supplements, to the Schedule 14D-9, and shall promptly provide Parent and Merger Sub with copies of all correspondence between the Company and its representatives, on the one hand, and the SEC, on the other hand. Prior to the filing of the Schedule 14D-9 (including any amendments or supplements thereto) with the SEC or dissemination thereof to the shareholders of the Company, or responding to any comments of the SEC with respect to the Schedule 14D-9, the Company shall provide Parent, Merger Sub and their counsel a reasonable opportunity to review and comment on such Schedule 14D-9 or response, and the Company shall give reasonable consideration to any such comments. The Company hereby consents to the inclusion in the Offer Documents of the Company Recommendation contained in the Schedule 14D-9.

(b) In connection with the Offer, the Company shall promptly furnish or cause to be furnished to Parent and Merger Sub or their agents mailing labels, security position listings, nonobjecting beneficial owner lists and any other available listings or computer files containing the names and addresses of the record holders or beneficial owners of the shares of Common Stock as of the most recent practicable date, and shall promptly furnish Parent and Merger Sub with such information and assistance (including updated lists of record holders or beneficial owners of the shares of Common Stock, from time to time upon Parent's, Merger Sub's or either of their respective agents' request, and the addresses, mailing labels and lists of security positions of such record holders or beneficial owners) as Parent, Merger Sub or their agents may reasonably request for the purpose of communicating the Offer and the Offer Documents to the record holders and beneficial owners of the shares of Common Stock. Subject to the requirements of applicable Law, and except for such steps as are necessary to disseminate the Offer Documents and any other documents necessary to consummate the Offer, the Merger and the other transactions contemplated hereby, Parent and Merger Sub shall hold in confidence the information contained in any such labels, listings and files in accordance with the Confidentiality Agreement and shall use such information only in connection with the Offer and the Merger and, if this Agreement shall be terminated, shall promptly deliver (and shall use their respective reasonable best efforts to cause their agents and Representatives to deliver) to the Company or shall destroy all copies and any extract or summaries of such information then in their possession or control. Each of Parent and Merger Sub hereby join and agree to be bound as the "Receiving Party" under the Confidentiality Agreement as fully as if originally party thereto. In addition, in connection with the Offer, the Company shall cause its Representatives to cooperate with Parent and Merger Sub to disseminate the Offer Documents to holders of shares of Common Stock held in or subject to any Company Benefit Plan, and to permit such holders of shares of Common Stock to tender such shares of Common Stock in the Offer, to the extent permitted by applicable Law and the applicable Company Benefit Plan.

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Section 1.03. *Board of Directors Prior to the Effective Time*.

(a) Effective upon the Offer Closing and from time to time thereafter, Parent shall be entitled to designate the number of directors, rounded up to the next whole number, on the Board of Directors of the Company that equals the product of (i) the total number of directors on the Board of Directors of the Company (giving effect to the election of any additional directors pursuant to this Section 1.03) and (ii) the percentage (rounding down to the next whole number) that the number of shares of Common Stock beneficially owned by Parent and/or Merger Sub (including shares accepted for payment) bears to the total number of shares of Common Stock outstanding, and the Company shall cause Parent's designees to be elected or appointed to the Board of Directors of the Company, including by promptly increasing the number of directors (included by amending the by-laws if necessary to increase the size of the Board of Directors of the Company) or securing resignations of incumbent directors. At such time, the Company shall also cause individuals designated by Parent to constitute the number of members, rounded up to the next whole number, on (A) each committee of the Board of Directors of the Company and (B) as requested by Parent, each board of directors of each Subsidiary of the Company (and each committee thereof) that represents the same percentage as such individuals represent on the Board of Directors of the Company. Notwithstanding the foregoing, until the Effective Time, the Company shall use reasonable best efforts to ensure that not less than three persons who are directors on the date hereof shall remain members of the Board of Directors of the Company until the Effective Time.

(b) The Company's obligations to appoint Parent's designees to the Board of Directors of the Company shall be subject to Section 14(f) of the Exchange Act and Rule 14f-1 promulgated thereunder. The Company shall promptly take all actions reasonably necessary to effect the appointment of Parent's designees, including mailing to its shareholders information with respect to the Company and its officers and directors, as Section 14(f) and Rule 14f-1 require in order to fulfill its obligations under this Section 1.03(b), which, unless Parent otherwise elects, shall be mailed together with the Schedule 14D-9. Parent shall supply to the Company in writing and be solely responsible for any information with respect to itself and its nominees, officers, directors and affiliates required by Section 14(f) and Rule 14f-1 and the Company's obligations under Section 1.03(a) hereof shall be subject to the receipt of such information.

(c) Following the election or appointment of Parent's designees pursuant to Section 1.03(a) and until the Effective Time (as defined in Section 2.03 hereof), the approval of a majority of the directors of the Company then in office who were not designated by Parent (the "**Independent Directors**") shall be required to authorize (and such authorization shall constitute the authorization of the Board of Directors of the Company and no other action on the part of the Company, including any action by any other director of the Company, shall be required to authorize) (i) any termination of this Agreement by the Company, (ii) any amendment of this Agreement requiring action by the Board of Directors of the Company, (iii) any amendment to the Company's articles of incorporation and by-laws, (iv) any extension of time for performance of any obligation or action hereunder by Parent or Merger Sub and (v) any waiver of compliance with, or enforcement by the Company of, any of the agreements or conditions contained herein for the benefit of the Company.

Section 1.04. *Top-Up Option*.

(a) The Company hereby grants to Merger Sub an irrevocable option (the "**Top-Up Option**"), exercisable only on the terms and conditions set forth in this Section 1.04, to purchase at a price per share equal to the Offer Price paid in the Offer that number of newly issued shares of Common Stock (the "**Top-Up Shares**") equal to the lowest number of shares of Common Stock that, when added to the number of shares of Common Stock owned by Parent and its Subsidiaries at the time of exercise of the Top-Up Option, shall constitute one share more than 80% of the shares of Common Stock outstanding immediately after the issuance of the Top-Up Shares on a fully diluted basis (which assumes conversion or exercise of all derivative securities regardless of the conversion or exercise price, the vesting schedule or other terms and conditions thereof). Upon Parent's request, the Company shall use its reasonable best efforts to cause its transfer agent to certify in writing to Parent the number of shares of Common Stock issued and outstanding as of immediately prior to the exercise of the Top-Up Option and after giving effect to the issuance of the Top-Up Shares. The Top-Up Option shall be exercisable only once, in whole but not in part, at any time following the Offer Closing and prior to the earlier to occur of (A) the Effective Time and (B) the termination of this Agreement in accordance with its terms.

(b) In the event Merger Sub wishes to exercise the Top-Up Option, Merger Sub shall deliver to the Company written notice (the "**Top-Up Notice**"), specifying (i) the number of shares of Common Stock owned by Parent and its Subsidiaries at the time of such notice (giving effect to the Offer Closing) and (ii) a place and a time for the closing of such purchase. The Company shall, as soon as practicable following receipt of the Top-Up Notice, deliver written notice to Merger Sub specifying, based on the information provided by Merger Sub in its notice, the number of Top-Up Shares to be purchased by Merger Sub. At the closing of the purchase of Top-Up Shares, the aggregate purchase price owed by Merger Sub to the Company for the Top-Up Shares shall be paid to the Company at Parent's election, either (i) entirely in cash, by wire transfer of same-day funds or (ii) by (A) paying in cash by wire transfer of same-day funds an amount equal to not less than the aggregate par value of the Top-Up Shares and (B) issuing to the Company a promissory note having a principal amount equal to the aggregate purchase price pursuant to the Top-Up Option less the amount paid in cash pursuant to the preceding clause (A) (the "**Promissory Note**"). The Promissory Note (i) shall bear simple interest at a rate of five percent (5%) per annum, payable in arrears at maturity, (ii) shall mature on the first anniversary of the date of execution of the Promissory Note, (iii) shall be full recourse to Parent and Merger Sub, (iv) may be prepaid, at any time, in whole or in part, without premium or penalty, and (v) shall have no other material terms. The Company shall cause to be issued to Merger Sub a certificate representing the Top-Up Shares or, if the Company does not then have certificated shares, the applicable number of Book-Entry Shares. Such

certificates or Book-Entry Shares may include any legends that are required by federal or state securities Laws. The parties hereto agree to use their reasonable best efforts to cause the closing of the purchase of the Top-Up Shares to occur on the same day that the Top-Up Notice is deemed received by the Company pursuant to Section 10.07, and if not so consummated on such day, as promptly thereafter as possible.

(c) Parent and Merger Sub acknowledge that no Top-Up Shares issued upon exercise of the Top-Up Option will be registered under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (together, the "**Securities Act**") and that all such shares will be issued in reliance upon an applicable exemption from registration under the Securities Act. Each of Parent and Merger Sub hereby represents and warrants to the Company that Merger Sub is, and will be, upon the purchase of the Top-Up Shares, an "accredited investor," as defined in Rule 501 of Regulation D under the Securities Act. Merger Sub agrees that the Top-Up Option and the Top-Up Shares to be acquired upon exercise of the Top-Up Option are being and will be acquired by Merger Sub for the purpose of investment and not with a view to, or for resale in connection with, any distribution thereof (within the meaning of the Securities Act).

(d) Any dilutive impact on the value of the shares of Common Stock as a result of the issuance of the Top-Up Shares shall not be taken into account in any determination of the fair value of any Dissenting Shares pursuant to Subchapter D of Chapter 15 of the PBCL as contemplated by Section 4.01(d).

Section 1.05. *The Merger*. Upon the terms and subject to the conditions set forth in this Agreement and in accordance with the applicable provisions of the Pennsylvania Business Corporation Law of 1988 as amended (the "**PBCL**"), at the Effective Time, Merger Sub shall be merged with and into the Company and the separate corporate existence of Merger Sub shall thereupon cease. The Company shall be the surviving corporation in the Merger (the "**Surviving Corporation**") and shall continue its corporate existence under Pennsylvania law as a wholly owned subsidiary of Parent.

Section 1.06. *Closing*. The closing of the Merger (the "**Closing**") shall take place at the offices of K&L Gates LLP, 210 Sixth Avenue, Pittsburgh, PA 15222 at 10:00 a.m. (New York City, New York time) on a date to be specified by the parties which shall be no later than the second Business Day following the satisfaction or waiver of the conditions set forth in Article 8 (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions) ("**Closing Date**"), or at such other place, date and time as the Company and Parent may agree in writing.

Section 1.07. *Effective Time*. As soon as practicable following the Closing, the parties shall properly file with the Department of State of the Commonwealth of Pennsylvania articles of merger providing for the Merger (the "**Articles of Merger**") in such form as is required by, and executed and acknowledged in accordance with, the relevant provisions of the PBCL. The Merger shall become effective at such date and time as the Articles of Merger are duly filed with the Department of State of the Commonwealth of Pennsylvania or, to the extent permitted by applicable Law, at such subsequent date and time as Parent and the Company shall agree and specify in the Articles of Merger. The date and time at which the Merger becomes effective is referred to in this Agreement as the "**Effective Time**."

Section 1.08. *Effects of the Merger*. The Merger shall have the effects specified in this Agreement and as set forth in Section 1929 of the PBCL. Without limiting the generality of the foregoing, and subject thereto, after the Effective Time, all property, rights privileges, immunities, powers, franchises, licenses and authority of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions and duties of each of the Company and Merger Sub shall become the debts, liabilities, obligations, restrictions and duties of the Surviving Corporation. At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company, its Subsidiaries or Merger Sub, any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of the Company, its Subsidiaries or Merger Sub, any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Corporation any and all right, title and interest in, to and under any of the rights, properties and assets of the Company, its Subsidiaries and Merger Sub.

ARTICLE 2

ARTICLES OF INCORPORATION AND BYLAWS OF THE SURVIVING CORPORATION

Section 2.01. *The Articles of Incorporation*. The articles of incorporation of the Company as in effect immediately prior to the Effective Time shall be amended by virtue of the Merger at the Effective Time to be identical to the articles of incorporation of Merger Sub as in effect immediately prior to the Effective Time, except that Article I of such articles of incorporation shall be amended to read as follows: “The name of the corporation (hereinafter called the “Corporation”) is “Michael Baker Corporation”, and as so amended shall be the articles of incorporation of the Surviving Corporation until thereafter changed or amended, subject to Section 7.12 and otherwise as provided therein or by applicable Law.

Section 2.02. *Bylaws*. The bylaws of Merger Sub as in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable Law.

ARTICLE 3

OFFICERS AND DIRECTORS OF THE SURVIVING CORPORATION

Section 3.01. *Directors*. Subject to applicable Law, the directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be. Parent shall (a) amend its limited liability company operating agreement and other governing documents with effect on or prior to the Effective Date substantially to the effect set forth on Schedule 3.01 and (b) cause three of the current directors of the Company to be nominated and elected as managers of Parent with terms beginning at the Effective Time and to continue for at least three years thereafter, all in accordance with the terms set forth on Schedule 3.01.

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Section 3.02. *Officers*. The officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified as set forth in the bylaws, as the case may be.

ARTICLE 4

CONVERSION OF SECURITIES

Section 4.01. *Conversion of Capital Stock*. At the Effective Time, as a result of the Merger and without any action on the part of the holder of any securities of the Company, Parent or Merger Sub:

(a) *The Company.*

(i) *Cancellation of Certain Common Stock*. Each share of Common Stock that is owned by Parent, Merger Sub or the Company (as treasury stock or otherwise) or any of their respective direct or indirect wholly-owned Subsidiaries shall automatically be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefore.

(ii) *Conversion of Remaining Common Stock*. Each share of Common Stock issued and outstanding immediately prior to the Effective Time (but excluding (x) shares to be cancelled and retired in accordance with Section 4.01(a)(i) and (y) Dissenting Shares) (each a "**Share**" or, collectively, the "**Shares**") shall be converted into the right to receive the Offer Price in cash per Share (the "**Merger Consideration**"), without interest. At the Effective Time, all of the Shares shall cease to be outstanding, shall be cancelled and shall cease to exist, and each certificate (a "**Certificate**", it being understood that any references herein to a "Certificate" or "Certificates" shall be deemed to include references, as applicable, to book-entry account statements relating to the ownership of Shares where appropriate) formerly representing any of the Shares shall thereafter represent only the right to receive the Merger Consideration for each such Share, without interest.

(b) *Merger Sub.* Each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become, in the aggregate, 10 validly issued, fully paid and nonassessable shares of common stock, par value $0.01 per share, of the Surviving Corporation with the same rights, powers and privileges as the shares so converted and shall constitute the only outstanding shares of capital stock of the Surviving Corporation. From and after the Effective Time, all certificates representing the common stock of Merger Sub shall be deemed for all purposes to represent the number of shares of common stock of the Surviving Corporation into which they were converted in accordance with the immediately preceding sentence.

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(c) *Adjustments.* If at any time during the period between the date of this Agreement and the Effective Time, any change in the outstanding shares of capital stock of the Company shall occur as a result of any reclassification, recapitalization, stock split (including a reverse stock split) or combination, exchange or readjustment of shares, or any stock dividend or stock distribution is declared with a record date during such period, the Merger Consideration shall be equitably adjusted to reflect such change.

(d) *Dissenting Shares.* Notwithstanding any provision of this Agreement to the contrary, including Section 4.01(a), shares of Common Stock issued and outstanding immediately prior to the Effective Time (other than shares cancelled in accordance with Section 4.01(a)(i)) and held by a record holder or beneficial owner who has not voted in favor of adoption of this Agreement or consented thereto in writing and who is statutorily entitled to exercise appraisal rights and who duly complies with all provisions of the PBCL concerning the right of holders of Common Stock to dissent from the Merger and seek appraisal of their shares (such shares of Common Stock being referred to collectively as the "**Dissenting Shares**" until such time as such holder fails to perfect or otherwise loses such holder's dissenters rights under the PBCL with respect to such shares) shall not be converted into a right to receive the Merger Consideration, but instead shall be entitled to only such rights as are granted by Subchapter D of Chapter 15 of the PBCL; provided, however, that if, after the Effective Time, such holder fails to perfect, withdraws or loses such holder's right to dissenters pursuant to Subchapter D of Chapter 15 of the PBCL or if a court of competent jurisdiction shall determine that such holder is not entitled to the relief provided by Subchapter D of Chapter 15 of the PBCL, such shares of Common Stock shall be treated as if they had been converted as of the Effective Time into the right to receive the Merger Consideration in accordance with Section 4.01(a)(ii), without interest thereon, upon surrender of such Certificate formerly representing such share. Notwithstanding anything to the contrary contained in Section 4.01(a)(ii), if the Merger is rescinded or abandoned prior to the Effective Time, then the right of any shareholder to be paid the fair value of such shareholder's Dissenting Shares pursuant to Subchapter D of Chapter 15 of the PBCL shall cease. The Company shall provide Parent prompt written notice of any demands received by the Company for appraisal of shares of Common Stock, any withdrawal of any such demand and any other demand, notice or instrument delivered to the Company prior to the Effective Time pursuant to the PBCL that relates to such demand, and Parent shall have the opportunity and right to direct all negotiations and proceedings with respect to such demands. Except with the prior written consent of Parent, the Company shall not make any payment with respect to, or settle or offer to settle, any such demands.

Section 4.02. *Exchange of Certificates.*

(a) *Exchange Agent*. Prior to the Effective Time, Parent shall appoint a U.S. bank or trust company reasonably acceptable to the Company (the "**Exchange Agent**"), pursuant to an agreement customary in form and substance, for the purpose of exchanging the Merger Consideration for (i) the Certificates or (ii) subject to Section 4.03, uncertificated Shares (the "**Uncertificated Shares**").

(b) *Deposit of Funds*. Prior to or concurrent with the Effective Time, Parent shall deposit, or shall cause to be deposited, with the Exchange Agent, in trust for the benefit of holders of the Shares, the cash in U.S. dollars sufficient to pay the aggregate Merger Consideration in exchange for all Shares outstanding immediately prior to the Effective

Time (such cash referred to being hereinafter referred to as the "**Exchange Fund**").

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(c) *Letter of Transmittal*. Promptly after the Effective Time, Parent shall send, or shall cause the Exchange Agent to send, to each holder of Shares at the Effective Time a letter of transmittal and instructions for use in such exchange (the "**Letter of Transmittal**"). The Letter of Transmittal shall be in a form mutually agreed upon by Parent, the Company and the Exchange Agent, and shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates or transfer of the Uncertificated Shares to the Exchange Agent.

(d) *Payment for Shares*. Each holder of Shares that have been converted into the right to receive the Merger Consideration shall be entitled to receive, upon (i) surrender to the Exchange Agent of a Certificate, together with a properly completed letter of transmittal, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of a book-entry transfer of Uncertificated Shares, the Merger Consideration in respect of the Shares represented by a Certificate or Uncertificated Share. Until so surrendered or transferred, as the case may be, each such Certificate or Uncertificated Share shall represent after the Effective Time for all purposes only the right to receive such Merger Consideration.

(e) *Payment Other Than to Record Holder*. If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Uncertificated Share is registered, it shall be a condition to such payment that (i) either such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Uncertificated Share shall be properly transferred and (ii) the Person requesting such payment shall pay to the Exchange Agent any transfer, documentary, stamp or similar taxes required as a result of such payment to a Person other than the registered holder of such Certificate or Uncertificated Share or establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(f) *Closing of Transfer Books*. After the Effective Time, there shall be no further registration of transfers of Shares. If, after the Effective Time, Certificates or Uncertificated Shares are presented to the Surviving Corporation or the Exchange Agent, they shall be canceled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this Article 4.

(g) *Reversion; Escheat*. Any portion of the Exchange Fund that remains unclaimed by the holders of Shares one year after the Effective Time shall be returned to Parent, upon demand, and any such holder who has not exchanged Shares for the Merger Consideration in accordance with this Section 4.02 prior to that time shall thereafter look only to Parent for payment of the Merger Consideration in respect of such Shares without any interest thereon. Notwithstanding the foregoing, Parent shall not be liable to any holder of Shares for any amounts paid to a public official pursuant to applicable abandoned property, escheat or similar Laws. Any amounts remaining unclaimed by holders of Shares immediately prior to such time when the amounts would otherwise escheat to or become property of any Governmental Entity shall become, to the extent permitted by Applicable Law, the property of Parent free and clear of any claims or interest of any Person previously entitled thereto.

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(h) *Investment of Exchange Fund*. The Exchange Agent shall invest any cash in the Exchange Fund as directed by Parent; *provided*, *however*, that any investment of such cash shall in all events be limited to direct short-term obligations of, or short-term obligations fully guaranteed as to principal and interest by, the U.S. government, in commercial paper rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, or in certificates of deposit, bank repurchase agreements or banker's acceptances of commercial banks with capital exceeding $25 billion (based on the most recent financial statements of such bank that are then publicly available), and that no such investment or loss thereon shall affect the amounts payable pursuant to this Agreement. Any interest and other income resulting from such investments shall be paid to Parent. In the event the Exchange Fund shall be insufficient to make the payments contemplated by this Agreement, Parent shall, or shall cause the Surviving Corporation to, promptly deposit additional funds with the Exchange Agent in an amount which is equal to the deficiency in the amount required to make such payment. The Exchange Fund shall not be used for any purpose that is not expressly provided for in this Agreement.

(i) *Withholding*. Each of the Exchange Agent, Parent, Merger Sub and the Surviving Corporation and their respective agents shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to the Offer or under this Agreement to any holder of shares of Common Stock, and any amounts payable as described under Section 4.03, such amounts as are required to be withheld or deducted under the Internal Revenue Code of 1986 (the "**Code**") or any provision of applicable Federal, state, local or foreign Tax Law with respect to the making of such payment. To the extent that amounts are so withheld or deducted and paid over to the applicable Governmental Entity, such withheld or deducted amounts shall be treated for all purposes of this Agreement as having been paid to the holder the shares of Common Stock, Company Stock Options, Company Stock-Based Awards or Company Cash-Based Awards, as applicable, in respect of which such deduction and withholding were made.

(j) *Lost Certificates.* In the case of any Certificate that has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such person of a bond in customary amount as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall issue in exchange for such lost, stolen or destroyed Certificate a check in the amount of the number of Shares represented by such lost, stolen or destroyed Certificate multiplied by the Merger Consideration.

Section 4.03. *Company Stock Options; Company Stock-Based Awards; Company Cash-Based Awards; Company ESPP.*

(a) *Company Stock Options*. Immediately prior to the Effective Time, each then-outstanding option to purchase shares of Common Stock (a "**Company Stock Option**") granted under the Michael Baker Corporation Long-Term Incentive Plan and the Michael Baker Corporation 1996 Non-employee Directors Stock Incentive Plan (the "**Company Stock Plans**"), whether or not vested or exercisable, shall become fully vested and exercisable contingent upon the Effective Time, and shall be, as of or immediately prior to the Effective Time, canceled and converted into the right to receive an amount in cash equal to the product of (i) the excess, if any, of the Merger Consideration over the applicable exercise price per share of such Company Stock Option, and (ii) the number of shares such holder could have purchased (without regard to whether the Company Stock Option is then vested) had such holder exercised such Company Stock Option in full immediately prior to the Effective Time. However, if the applicable exercise price per share of such Company Stock Option is equal to or exceeds the Merger Consideration, such Company Stock Option shall be canceled without payment of any consideration therefor and shall be of no further force and effect. Prior to the Effective Time, the Company, the Company's Board and any applicable committees thereof shall take all actions necessary to terminate, adjust or amend the Company Stock Plans so that the Company Stock Options are cancelled and extinguished for the payments provided herein. Parent (and each of its Affiliates) is not assuming or continuing any Company Stock Option, stock awards or stock option grants made prior to the Effective Time, if any.

(b) *Company Stock-Based Awards.* Immediately prior to the Effective Time, the restrictions applicable to each then-outstanding Share of restricted stock granted under the Company Stock Plans ("**Company Stock-Based Award**") shall lapse and, to the extent not previously vested, contingent upon the Effective Time, be deemed fully vested, and such Company Stock-Based Award shall be, as of or immediately prior to the Effective Time, converted into the right to receive the Merger Consideration pursuant to Section 4.02.

(c) *Company Cash-Based Awards.* Immediately prior to the Effective Time, each then-outstanding cash-based award ("**Company Cash-Based Award**") granted under the Michael Baker Corporation Incentive Compensation Plan for 2013 shall be deemed to have been fully earned for the 2013 Plan Year, contingent upon the Effective Time. The aggregate amount to be awarded in Company Cash-Based Awards for the 2013 Plan Year (including interim awards paid on a quarterly basis prior to the Effective Time as well as the amounts paid under Section 4.03(e) pursuant to this Section 4.03(c)) shall be determined by applying the percentage performance tiers adopted for the 2013 Plan Year to the Company's actual consolidated EBITDA for the period from and including January 1, 2013 through the Effective Time as compared to the Company's 2013 budget targets for consolidated EBITDA for such period. Such aggregate amount shall be allocated by the Company pursuant to written instructions to be adopted by the Office of the Chief Executive Officer and Operating Committee prior to the Effective Time, which allocation principles shall be generally consistent with the Company's past practices in respect of such awards.

(d) *Company ESPP.* Prior to the Effective Time, the Company shall take all actions necessary to (i) terminate the Michael Baker Corporation Employee Stock Purchase Plan (the "**Company ESPP**") as of immediately prior to the Effective Time and (ii) provide that the rights of participants in the Company ESPP with respect to any "Purchase

Period" (as defined in the Company ESPP) in effect on or after the date hereof under the Company ESPP shall be determined by treating a Business Day to be determined by Company that is prior to the Closing Date as the last day of such Purchase Period (the "**Final Investment Date**") and by making such other pro-rata adjustments as may be necessary to reflect the shortened Purchase Period, but otherwise treating such shortened Purchase Period as a fully effective and completed offering period for all purposes under the Company ESPP, in accordance with Section 4.2 of the Company ESPP. Any Shares of Common Stock acquired prior to or on the Final Investment Date shall be treated as outstanding Shares for purposes of Sections 4.01 and 4.02.

(e) *Payment Procedures.* All amounts payable pursuant to paragraphs (a) and/or (c) of this Section 4.03 to the holders of Company Stock Options and Company Cash-Based Awards shall be paid by the Surviving Corporation at the Effective Time. As soon as reasonably practicable following the date of this Agreement, the Company (and the Company's Board and any applicable committees thereof) shall take all actions and adopt such resolutions as may be required to give effect to and accomplish the transactions contemplated by this Section 4.03.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as disclosed in the Company SEC Documents (as hereinafter defined) filed prior to the date hereof (excluding any disclosures set forth in any such Company SEC Document under the headings "Safe Harbor Statement," "Risk Factors" or any similar section and any disclosures therein that are predictive, cautionary or forward-looking in nature) or as disclosed in the disclosure schedule delivered by the Company to Parent immediately prior to the execution of this Agreement (the "**Company Disclosure Schedule**"), the Company represents and warrants to Parent and Merger Sub as follows:

Section 5.01. *Organization, Good Standing and Qualification*. The Company and each of its Subsidiaries is a legal entity duly organized, validly existing and in good standing or is subsisting (with respect to jurisdictions that recognize the concept of good standing or subsisting) under the Laws of the jurisdiction of its organization and has the requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing or subsisting (with respect to jurisdictions that recognize the concept of good standing or subsisting) as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or the conduct of its business as presently conducted requires such qualification, except where (i) the failure of any of the Company's Subsidiaries to be so organized, existing, qualified or in good standing or to have such power or authority or (ii) the failure of the Company to be so qualified, be in good standing as a foreign corporation or have such authority has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company has made available to Parent complete and correct copies of the Company's articles of incorporation and bylaws, each as amended to the date of this Agreement, and each as so made available is in full force and effect on the date of this Agreement.

Section 5.02. *Capital Structure.*

(a) The authorized capital stock of the Company consists of 50,000,000 shares of Common Capital Stock and 300,000 shares of Cumulative Preferred Stock. The Common Capital Stock is divided into two series, the Common Stock and the Series B Common Stock, of which there are 44,000,000 authorized shares of Common Stock and 6,000,000 authorized shares of Series B Common Stock. At the close of business on July 26 2013, (i) 9,684,631 shares of Common Stock were issued and outstanding (including 48,759 unvested shares under Company Stock-Based Awards), (ii) 525,489 shares of Common Stock were held in treasury, (iii) 1,087,865 shares of Common Stock were reserved for issuance under the Company Stock Plans, (iv) no shares of Series B Common Stock were outstanding, and (v) no shares of Cumulative Preferred Stock were outstanding. All outstanding shares of Common Stock, when issued in accordance with the terms thereof, were duly authorized, validly issued, fully paid and non-assessable and free of pre-emptive rights and all Liens. Section 5.02(a) of the Company Disclosure Schedule sets forth a complete and correct list as of July 26, 2013 of all outstanding Company Stock-Based Awards, Company Stock Options and each right of any kind, contingent or accrued, to receive shares of Common Stock (other than the Top-Up Option) or benefits measured in whole or in part by the value of a number of shares of Common Stock granted under the Company Stock Plans, Company Benefit Plans or otherwise (including restricted stock units, phantom units, deferred stock units and dividend equivalents), the number of shares of Common Stock issuable thereunder or with respect thereto and the exercise price (if any) and the Company has granted no other such awards since July 26, 2013 and prior to the date hereof.

(b) All outstanding shares of capital stock of, or other equity interests in, each Subsidiary of the Company are duly authorized, validly issued, fully paid and non-assessable, were not issued in violation of any preemptive or similar rights, purchase option, call or right of first refusal or similar rights, and are owned by the Company or by a wholly owned Subsidiary of the Company, free and clear of all Liens.

(c) Except as set forth in subsection (a) above, as of the date hereof, (i) the Company does not have any shares of its capital stock or other voting securities issued or outstanding other than shares of Common Stock that have become outstanding after July 26, 2013, which were reserved for issuance as of July 26, 2013 as set forth in subsection (a) above with respect to awards outstanding as of such date under Company Stock Plans and (ii) there are no outstanding subscriptions, options, warrants, calls, convertible or exchangeable securities, or other similar rights, undertakings, agreements or commitments of any kind to which the Company or any of the Company's Subsidiaries is a party obligating the Company or any of the Company's Subsidiaries to (A) issue, transfer or sell, or cause to be issued, transferred or sold, any shares of capital stock or other equity interests of the Company or any Subsidiary of the Company or securities convertible into or exchangeable for such shares or equity interests, (B) issue, grant, extend or enter into any such subscription, option, warrant, call, convertible securities or other similar right, undertaking, agreement or arrangement, (C) repurchase, redeem or otherwise acquire any such shares of capital stock or other equity interests, (D) provide a material amount of funds to, or make any material investment (in the form of a loan, capital contribution or otherwise) in, any Subsidiary, or (E) give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights occurring to holders of Common Stock. Except for the issuance of shares of Common Stock that were reserved for issuance as set forth in subsection (a) above, and from July 26, 2013, to the date hereof, the Company has not declared or paid any dividend or distribution in respect of the Common Stock, and has not issued, sold, repurchased, redeemed or otherwise acquired any Common Stock, and its

Board of Directors has not authorized any of the foregoing.

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(d) Except for awards to acquire or receive shares of Common Stock under a Company Stock Plan, neither the Company nor any of its Subsidiaries has outstanding bonds, debentures, notes or other obligations, the holders of which have the right to vote (or which are convertible into or exercisable for securities having the right to vote) with the shareholders of the Company on any matter.

(e) There are no voting trusts or other agreements or understandings to which the Company or any of its Subsidiaries is a party with respect to the voting of the capital stock or other equity interest of the Company or any of its Subsidiaries.

Section 5.03. *Corporate Authority; Approvals; Fairness Opinion.*

(a) The Company has the requisite corporate power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the Merger, subject only to Company Shareholder Approval in the case of the Merger, to consummate the Merger and the other transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and, assuming this Agreement constitutes the legal, valid and binding agreement of Parent and Merger Sub, constitutes the legal, valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(b) The Board of Directors of the Company, at a meeting duly called and held, duly adopted resolutions:

(i) determining that this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement are advisable and are fair to the Company’s shareholders and are in the best interests of the Company;

(ii) approving this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement;

(ii) recommending to the holders of shares of Common Stock that they accept the Offer and tender their shares pursuant to the Offer;

(iii) proposing the Merger in accordance with Section 1922 of the PBCL by adopting a resolution approving this Agreement as a plan of merger for the purposes of Section 1922 of the PBCL;

(iv) directing that, if required under applicable Law to effect the Merger, this Agreement be submitted to a vote at a meeting of the Company's shareholders entitled to vote hereon; and;

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(v) recommending that the Company's shareholders at any such meeting approve this Agreement and the Merger (including approval of this Agreement by the shareholders entitled to vote thereon so that this Agreement is adopted for the purposes of Section 1924 of the PBCL); (the foregoing recommendations in clauses (i) through (v) of this Section 5.03(b), collectively, the "**Company Recommendation**"), which resolutions have not, except after the date of this Agreement as permitted by this Agreement, including Section 7.02, been rescinded, modified or withdrawn. Except for the Company Shareholder Approval and the filing of the Articles of Merger with the Secretary of State of the Commonwealth of Pennsylvania, no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or the consummation of the transactions contemplated hereby.

(c) As a result of bylaws duly and timely adopted by the Board of Directors of the Company, Subchapters E, G, H, I and J of Chapter 25 of the PBCL do not apply to the Company. The resolutions of the Board of Directors of the Company referred to in Section 5.03(b) constitute the only action necessary to render inapplicable to this Agreement, the Offer, the Merger, the other transactions contemplated hereby and compliance with the terms of this Agreement, the restrictions on "business combinations" (as defined in Section 2554 of the PBCL) set forth in Subchapter F of Chapter 25 of the PBCL, in each case to the extent, if any, such restrictions would otherwise be applicable to this Agreement, the Offer, the Merger, the other transactions contemplated hereby or compliance with the terms of this Agreement. An informational notice by Merger Sub with the Pennsylvania Securities Commission (the "**PA Takeover Notice**") will be required in order to perfect an exemption from the registration requirements of the Pennsylvania Takeover Disclosure Law, 70 P.S. §71, et seq., pursuant to 70 P.S. §78(a). Except as described in this Section 5.03(c), no other Takeover Statute, assuming the accuracy of the representations in Section 6.08, is applicable to this Agreement, the Offer, the Merger, the other transactions contemplated hereby or compliance with the terms of this Agreement. The Company is not party to a rights agreement, "poison pill" or similar agreement or plan.

(d) The Board of Directors of the Company has received the opinion of Houlihan Lokey Capital, Inc. (the "**Company Financial Advisor**") to the effect that, as of the date of such opinion, and subject to the various assumptions and qualifications set forth therein, including, without limitation, the Opinion Assumptions (as defined in such opinion), the Offer Price to be received by the holders of Common Stock in the Offer and the Merger is fair to such holders from a financial point of view and as promptly as practicable a copy of such opinion shall be provided by the Company to Parent, solely for informational purposes, following the date hereof.

Section 5.04. *Governmental Filings; No Violations.*

(a) Except for (i) compliance with, and filings under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the "**HSR Act**"), (ii) compliance with, and filings under, the Exchange Act and the Securities Act and the rules and regulations promulgated thereunder, including the filing with the SEC of the Schedule 14D-9 and, if the Shareholders Meeting is required pursuant to this Agreement, of a proxy statement relating to the Shareholders Meeting to be held in connection with this Agreement and the transactions contemplated hereunder (together with any amendments or supplements thereto, the "**Proxy Statement**"), (iii) compliance with state securities, takeover and "blue sky" Laws and the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby, (iv) the filing with the Department of State of the Commonwealth of Pennsylvania the Articles of Merger; (v) compliance with the applicable requirements of the NYSE MKT LLC (the "**NYSE MKT**"), and (vi) such other items as disclosed in Section 5.04(a) of the Company Disclosure Schedule (the items set forth above in clauses (i) through (vii), the "**Company Required Governmental Approvals**"), no notices, reports or other filings are required to be made by the Company with, nor are any consents, registrations, approvals or authorizations required to be obtained by the Company from, any domestic or foreign governmental or regulatory body, commission, agency, court, instrumentality, authority or other legislative, executive or judicial entity (each, a "**Governmental Entity**") in connection with the execution, delivery and performance of this Agreement by the Company or the consummation of the Offer, the Merger and the other transactions contemplated hereby, except those that the failure to make or obtain, as the case may be, would not have or reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) The execution, delivery and performance of this Agreement by the Company does not, and the consummation of the Offer, the Merger and the other transactions contemplated hereby will not, constitute or result in (i) a breach or violation of, or a default under, the articles of incorporation or bylaws of the Company (in the case of the consummation of the Merger, assuming the Company Shareholder Approval is obtained), (ii) a breach or violation of, or a default under, the articles of incorporation or bylaws of any Subsidiary of the Company, or (iii) with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under or the creation of a Lien on any of the assets of the Company or any of its Subsidiaries pursuant to any Company Material Contract, other than any such Lien (A) for Taxes or governmental assessments, charges or claims of payment not yet due, being contested in good faith or for which adequate accruals or reserves have been established on the most recent consolidated balance sheet included in the Company SEC Documents, (B) which is a carriers', warehousemen's, mechanics', materialmen's, repairmen's or other similar Lien arising in the ordinary course of business, (C) which is disclosed on the most recent consolidated balance sheet of the Company or notes thereto or securing liabilities reflected on such balance sheet, or (D) which was incurred in the ordinary course of business since the date of the most recent consolidated balance sheet of the Company (each of the foregoing, a "**Permitted Lien**"), upon any of the properties or assets of the Company or any of the Company's Subsidiaries, other than, in the case of the preceding clauses (ii) or (iii), any such items that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 5.05. *SEC Filings*.

(a) The Company has filed with or furnished to the SEC all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by it since December 31, 2012 (collectively, together with any exhibits and schedules thereto and other information incorporated therein, the "**Company SEC Documents**"; together with any of the foregoing filed with or furnished to the SEC by the Company after the date hereof and prior to the Effective Time, the "**Company Filings**").

(b) No Subsidiary of the Company is required to file or furnish any report, statement, schedule, form or other document with, or make any other filing with, or furnish any material to, the SEC.

(c) As of its filing date (and as of the date of any amendment), each Company Filing complied, and each Company Filing filed subsequent to the date hereof will comply, as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as the case may be.

(d) As of its filing date (or, if amended or superseded by a filing prior to the date hereof, on the date of such filing), each Company Filing filed pursuant to the Exchange Act did not, and each Company Filing filed subsequent to the date hereof will not, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(e) Each Company Filing that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(f) The Company maintains disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act. Such disclosure controls and procedures are reasonably designed to ensure that information required to be disclosed by the Company is recorded and reported on a timely basis to the individuals responsible for the preparation of the Company SEC Reports. The Company maintains a system of "internal control over financial reporting" (as defined in Rule 13a-15 or 15d-15, as applicable, under the Exchange Act). Such internal control over financial reporting is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with United States generally accepted accounting principles ("**GAAP**"). Since December 31, 2012, the Company has not received any written notification of any (i) "significant deficiency" or (ii) "material weakness" (as defined in Rule 13a-15 or 15d-15, as applicable, under the Exchange Act) in the Company's internal controls over financial reporting.

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Section 5.06. *Financial Statements; Liabilities.*

(a) The audited consolidated financial statements and unaudited consolidated interim financial statements of the Company included in the Company SEC Documents fairly present in all material respects, in each case in accordance with GAAP applied on a consistent basis (except as may be indicated in the notes thereto), the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows for the periods then ended (subject, in the case of the unaudited statements, to normal year-end audit adjustments and to any other adjustments described therein, including the notes thereto).

(b) There are no liabilities or obligations of the Company or any of its Subsidiaries of the type required to be disclosed in the liabilities column of a balance sheet prepared in accordance with GAAP, other than: (i) liabilities or obligations disclosed and provided for in the Company's audited consolidated balance sheet as at December 31, 2012 (the "**Company Balance Sheet**") or in the notes thereto, (ii) liabilities or obligations incurred in the ordinary course of business consistent with past practices in all material respects since December 31, 2012 (the "**Company Balance Sheet Date**") or arising or incurred in connection with or contemplated by this Agreement, and (iii) liabilities or obligations that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 5.07. *Absence of Certain Changes*.

(a) Since December 31, 2012 through the date of this Agreement, except as contemplated by this Agreement, the business of the Company and its Subsidiaries has been conducted in all material respects in the ordinary course of business.

(b) Since December 31, 2012 through the date of this Agreement, there has not been any development, fact, change, event, effect, occurrence or circumstances that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 5.08. *Compliance with Law.*

(a) The Company and each of its Subsidiaries is, and at all times since December 31, 2012 has been, in compliance with, and to the Knowledge of the Company is not under investigation with respect to nor has been threatened in writing to be charged with or given written notice of any violation of, any Applicable Law, except for failures to comply or violations that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. There is no judgment, decree, injunction, rule or order of any arbitrator or

Governmental Entity outstanding against the Company or any of its Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. This Section 5.08(a) does not relate to employee benefits matters, environmental matters, Tax matters or intellectual property rights matters that are the subjects of Sections 5.10, 5.11, 5.12 and 5.14, respectively.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company and its Subsidiaries hold all governmental licenses, authorizations, permits, consents, approvals, variances, exemptions and orders necessary for the operation of the businesses of the Company and its Subsidiaries as currently conducted (the "**Company Permits**"), (ii) the Company and its Subsidiaries are in compliance with the terms of the Company Permits, and since December 31, 2012, there has occurred no violation of, default (with or without notice or lapse of time or both) under, or event giving to others any right of termination or cancellation of, with or without notice or lapse of time or both, any Company Permit, (iii) there is no event which has occurred that, to the Knowledge of the Company, would reasonably be expected to result in the revocation, cancellation, non-renewal or adverse modification of any such Company Permit, and (iv) the Merger, in and of itself, will not cause the revocation or cancellation of any such Company Permit.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, none of the Company, any Subsidiary of the Company, or any director or executive officer of any of them, or, to the Company's Knowledge, any other officer, employee, agent or other Representative of the Company or any of its Subsidiaries, has, in the course of its actions for, or on behalf of, any of them (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity, (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds, (iii) violated any provision of any Anti-Bribery Law, or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee. Since December 31, 2012, neither the Company nor any of its Subsidiaries has received any written communication that alleges that the Company or any of its Subsidiaries, or any of their respective Representatives, is, or may be, in material violation of, or has, or may have, any material liability under, any Anti-Bribery Laws.

Section 5.09. *Litigation*.

(a) As of the date of this Agreement, (i) there is no investigation or review pending (or, to the Knowledge of the Company, threatened in writing) by any Governmental Entity with respect to the Company or any of the Company's Subsidiaries which would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and (ii) there are no actions, suits, inquiries, investigations, arbitrations, mediations or proceedings pending (or, to the Knowledge of the Company, threatened in writing) against or affecting the Company, any of its Subsidiaries, or any of their respective properties at law or in equity before, and there are no orders, judgments or decrees of, or before, any Governmental Entity, in each case which would have, individually or in the aggregate, a Company Material Adverse Effect.

(b) As of the date of this Agreement, there are no civil, criminal or administrative actions, suits, claims, hearings, arbitrations, investigations or other proceedings pending or, to the Knowledge of the Company, threatened in writing against the Company that seek to enjoin, or would reasonably be expected to have the effect of preventing, making illegal, or otherwise materially interfering with, any of the transactions contemplated by this Agreement, except those that, individually or in the aggregate, are not reasonably likely to prevent, materially delay or materially impede the ability of Company to consummate the Merger or the other transactions contemplated by this Agreement.

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Section 5.10. *Employee Benefits.*

(a) Section 5.10(a) of the Company Disclosure Schedule lists all material Company Benefit Plans. "**Company Benefit Plans**" means all employee or director benefit plans, programs, policies, agreements or other arrangements, including any employee welfare plan within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), any employee pension benefit plan within the meaning of Section 3(2) of ERISA (whether or not such plan is subject to ERISA), and any bonus, incentive, deferred compensation, vacation, stock purchase, stock option or other equity-based plan or arrangement, severance, employment, change of control, employment continuation, retention or fringe benefit plan, program or agreement (other than any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA and any other plan, program or arrangement maintained by an entity other than the Company or a Company Subsidiary pursuant to any collective bargaining agreements), in each case that are sponsored, maintained or contributed to by the Company or any of its Subsidiaries for the benefit of current or former employees, directors or consultants of the Company or its Subsidiaries.

(b) Section 5.10(b) of the Company Disclosure Schedule lists all "multiemployer plans" (as defined in Regulation 4001.2 under ERISA) to which the Company or any ERISA Affiliate is obligated to contribute currently or has been obligated to contribute during the immediately preceding three years. The Company has made available to Parent all material written information that it has regarding potential withdrawal liability under such multiemployer plans, and, subject to, and in accordance with Sections 7.04 and 7.05, the Company shall use reasonable best efforts to assist Parent and Merger Sub in obtaining any additional, available material information regarding such multiemployer plans as Parent or Merger Sub shall reasonably request.

(c) Except as would not have, individually or in the aggregate, a Company Material Adverse Effect:

(i) each material Company Benefit Plan has been maintained and administered in compliance with its terms and with applicable Law, including ERISA and the Code to the extent applicable thereto, and in each case the regulations thereunder;

(ii) each of the Company Benefit Plans intended to be "qualified" within the meaning of Section 401(a) of the Code has received a favorable determination letter from the IRS or is entitled to rely upon a favorable opinion issued by the IRS, and there are no existing circumstances or any events that have occurred that would reasonably be expected to adversely affect the qualified status of any such Company Benefit Plan;

(iii) with respect to each Company Benefit Plan that is subject to Title IV of ERISA, the present value of the accrued benefits under such Company Benefit Plan, based upon the actuarial assumptions used for funding purposes in the most recent actuarial report prepared for such Company Benefit Plan's actuary with respect to such Company Benefit

Plan, did not, as of its latest valuation date, exceed the then current value of the assets of such Company Benefit Plan allocable to such accrued benefits;

(iv) no Company Benefit Plan provides benefits, including death or medical benefits (whether or not insured), with respect to current or former employees or directors of the Company or its Subsidiaries beyond their retirement or other termination of service, other than (A) coverage mandated by applicable Law or (B) benefits under any "employee pension plan" (as such term is defined in Section 3(2) of ERISA);

(v) all contributions or other amounts payable by the Company or its Subsidiaries as of the date hereof with respect to each Company Benefit Plan in respect of current or prior plan years have been paid or accrued in accordance with GAAP;

(vi) neither the Company nor its Subsidiaries has engaged in a transaction in connection with which the Company or its Subsidiaries reasonably could be subject to either a civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a material Tax imposed pursuant to Section 4975 or 4976 of the Code; and

(vii) there are no pending, or to the Knowledge of the Company, threatened or anticipated claims (other than routine claims for benefits) by, on behalf of or against any of the Company Benefit Plans or any trusts related thereto which could individually or in the aggregate reasonably be expected to result in any material liability of the Company or any of its Subsidiaries.

(viii) no Company Benefit Plan exists that would result in the payment to any Company Employee of any money or other property or accelerate or provide any other rights or benefits to any Company Employee as a result of the consummation of the Offer, the Merger or any other transaction contemplated by this Agreement (whether alone or in connection with any other event); and

(ix) there is no Company Benefit Plan that, individually or collectively, would give rise to the payment of any amount that would not be deductible pursuant to the terms of Section 280G or Section 162(m) of the Code.

Section 5.11. *Environmental Matters*. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company and its Subsidiaries are, and at all times since December 31, 2012 have been, in compliance with all applicable Environmental Laws, (ii) none of the properties owned or, to the Company's Knowledge, leased or operated by the Company or any of its Subsidiaries contains any Hazardous Materials as a result of any activity of the Company or any of its Subsidiaries in amounts exceeding the levels allowed or otherwise permitted by applicable Environmental Laws, (iii) since December 31, 2012, neither the Company nor any of its Subsidiaries has received any notices, demand letters or requests for information from any federal, state, local or foreign Governmental Entity indicating that the Company or any of its Subsidiaries may be in violation of, or liable under, any Environmental Law in connection with the ownership or operation of its businesses or any of their respective properties or assets, (iv) there have been no Releases of any Hazardous Material at, onto, or from any

properties presently or formerly owned or, to the Company's Knowledge, leased or operated by the Company or any of its Subsidiaries as a result of any activity of the Company or any of its Subsidiaries during the time such properties were owned, leased or operated by the Company or any of its Subsidiaries and (v) neither the Company, its Subsidiaries nor any of their respective properties are subject to any liabilities relating to any suit, settlement, court order, administrative order, regulatory requirement, judgment, notice of violation or written claim asserted or arising under any Environmental Law. It is agreed and understood that no representation or warranty is made in respect of environmental matters in any Section of this Agreement other than this Section 5.11.

Section 5.12. *Taxes.*

(a) Except in the case of clauses (i), (iv) or (v) as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company and each of its Subsidiaries have prepared and timely filed (taking into account any extension of time within which to file) each of the material Tax Returns required to be filed by any of them and all such filed Tax Returns are complete and accurate, (ii) the Company and each of its Subsidiaries have paid all material Taxes that are required to be paid by any of them (whether or not shown on any Tax Return), except, in the case of clause (i) or clause (ii) hereof, with respect to matters contested in good faith or for which adequate reserves have been established in accordance with GAAP, (iii) as of the date of this Agreement, there are not pending or, to the Knowledge of the Company, threatened in writing, any audits, examinations, investigations or other proceedings in respect of Taxes or Tax matters owed or claimed to be owed by the Company or any of its Subsidiaries, (iv) there are no Liens for Taxes on any of the assets of the Company or any of its Subsidiaries other than Permitted Liens, (v) none of the Company or any of its Subsidiaries has been a "controlled corporation" or a "distributing corporation" in any distribution occurring during the two-year period ending on the date hereof that was purported or intended to be governed, in whole or in part, by Section 355(a) or 361 of the Code (or any similar provision of state, local or foreign Law), (vi) no person has granted any extension or waiver of the statute of limitations period applicable to any material Tax of the Company or any of its subsidiaries or any affiliated, combined or unitary group of which the Company or any Subsidiary is or was a member, which period (after giving effect to said extension or waiver) has not yet expired, and there is no currently effective "closing agreement" pursuant to Section 7121 of the Code (or any comparable provision of Law), (vii) neither the Company nor any of its Subsidiaries has ever entered into any "reportable transaction," as defined in Treasury Regulation Section 1.6011-4(b), required to be reported in a disclosure statement pursuant to Treasury Regulation Section 1.6011-4(a) (other than transactions for which Form 8866 was filed with the Company's Tax Returns), and (viii) the Company and each subsidiary have timely withheld and timely remitted to the appropriate taxing authority all Taxes required to have been withheld and remitted in connection with any amounts paid or owing to any employee, independent contractor, creditor, shareholder or other third party.

(b) None of the Company or any of its Subsidiaries will be required to include in a taxable period ending after the Effective Time taxable income attributable to income that accrued (for purposes of the financial statements of the Company included in the Company SEC Documents) in a prior taxable period (or portion of a taxable period) but was not recognized for tax purposes in any prior taxable period as a result of (i) the installment method of accounting, (ii) the completed contract method of accounting, (iii) the long-term contract method of accounting, (iv) the cash method of accounting or Section 481 of the Code, (v) any intercompany transaction or excess loss account described in Treasury Regulations Section 1.1502 (or any comparable provision of Law), or (vi) any comparable provisions of state or local tax law, domestic or foreign, or for any other reason, other than any amounts that are specifically reflected in a reserve for taxes on the financial statements of the Company included in the Company SEC Documents.

Section 5.13. *Labor Matters*. Neither the Company nor any of its Subsidiaries is a party to any material collective bargaining Contract with any labor organization, works council, trade union or other employee representative. To the Knowledge of the Company, there are no (and for the past year there has not been any) ongoing or threatened union organization or decertification activities or proceedings relating to any employees of the Company or any of its material Subsidiaries, and as of the date of this Agreement no demand for recognition as the exclusive bargaining representative of any employees is pending by or on behalf of any labor organization, works council, trade union or other employee representative. There is no pending or, to the Knowledge of the Company, threatened strike, lockout, work stoppage or other material labor disputes against or involving the Company or any of its Subsidiaries that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. There are no unfair labor practice charges pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries, except for such matters as have not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 5.14. *Intellectual Property*. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, either the Company or a Subsidiary of the Company owns, or is licensed or otherwise possesses legally enforceable rights to use, free and clear of all material Liens, all domestic and foreign trademarks (including call signs), trade names, service marks, service names, assumed names, registered and unregistered copyrights and applications for same, domain names, patents and patent applications and registrations used in their respective businesses as currently conducted, including all rights associated therewith, whether registered or unregistered and however documented (collectively, the "**Intellectual Property**"). Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (a) there are no pending or, to the Knowledge of the Company, threatened in writing claims by any person alleging infringement, misappropriation or other unauthorized use of Intellectual Property by the Company or any of its Subsidiaries, or challenging any aspect of the validity, enforceability, ownership, authorship, inventorship or use of any of the Intellectual Property, (b) to the Knowledge of the Company, the conduct of the business of the Company and its Subsidiaries does not infringe, misappropriate or otherwise make unauthorized use of any intellectual property rights of any person, and neither the Company nor any of its Subsidiaries has received an "invitation to license" or other communication from any third party asserting that the Company or any of its Subsidiaries is or will be obligated to take a license under any intellectual property owned by any third party in order to continue to conduct their respective businesses as they are currently conducted, (c) neither the Company nor any of its Subsidiaries has made any claim of infringement, misappropriation or other unauthorized use by others of its rights to or in connection with the Intellectual Property of the Company or any of its Subsidiaries, (d) to the Knowledge of the Company, no person is currently infringing, misappropriating or otherwise making unauthorized use of any Intellectual Property of the Company or any of its Subsidiaries, and (e) the Company and its Subsidiaries have taken commercially reasonable actions in accordance with normal industry practice to protect, maintain and preserve the Intellectual Property.

Section 5.15. *Insurance*. Section 5.15 of the Company Disclosure Schedule includes a true, complete and correct list of all material policies or binders of insurance held applicable to events on the date hereof by or on behalf of the Company and its Subsidiaries relating to their businesses, assets and properties (specifying the insurer, the insured(s), the amount of the coverage, the premiums, the type of insurance, the risks insured, the policy expiration dates, the deductibles, the loss retention amounts and any pending claims thereunder). Each of the policies and binders listed thereon is in full force and effect as of the date hereof and the Company has not received any written notice of cancellation or any other indication that any material insurance policy is no longer in full force or effect or will not be renewed or that the issuer of any such policy is not willing or able to perform its obligations thereunder, in each case except as would not reasonably be expected to have a Company Material Adverse Effect.

Section 5.16. *Properties.*

(a) Except (i) as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and (ii) for Permitted Liens, the Company and its Subsidiaries have good title to, or valid leasehold interests in, all tangible properties and assets reflected on the Company Balance Sheet or acquired after the Company Balance Sheet Date, except as have been disposed of since the Company Balance Sheet Date in the ordinary course of business.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) to the Company's Knowledge each lease, sublease or license (each, a "**Lease**") under which the Company or any of its Subsidiaries leases, subleases or licenses any real property is valid and in full force and effect, (ii) neither the Company nor any of its Subsidiaries, nor to the Company's Knowledge any other party to a Lease, has violated any provision of, or taken or failed to take any act which, with or without notice, lapse of time, or both, would constitute a default under the provisions of such Lease, and (iii) neither the Company nor any of its Subsidiaries has received written notice that it has breached, violated or defaulted under any Lease.

Section 5.17. *Material Contracts.*

(a) As used herein, "**Company Material Contracts**" shall mean all "material contracts" described in Item 601(b)(10) of Regulation S-K (other than this Agreement) to which the Company or any of its Subsidiaries is a party or may be bound on the date hereof and that are required to be filed with the SEC and the following additional Contracts to which the Company or any of its Subsidiaries is a party or bound:

(i) Contracts with any present or former shareholder, director, officer or employee of the Company or any of its Subsidiaries;

(ii) Contracts for the future purchase of, or payment for, supplies or products from a third party, or for the performance of services by a third party, involving in any one case $5,000,000 or more over any twelve (12)-month period;

(iii) Contracts to sell or supply products or to perform services, involving in any one case $5,000,000 or more (x) in the case of all such Contracts with clients of the Company or any of its Subsidiaries, in funded backlog under such Contract as of the date of this Agreement or (y) for any other Contract otherwise involving the sale or supply of products, over the remaining life of the Contract;

(iv) Contracts continuing over a period of more than one year from the date hereof or exceeding $5,000,000 in value that neither (x) are otherwise disclosed in the Company SEC Documents or in the Company Disclosure Schedule nor (y) would have been required to be disclosed under any other clause of this Section 5.17(a) were the monetary or temporal thresholds set forth in such clause disregarded;

(v) Leases providing for a payment in excess of $1,000,000 per year;

(vi) note, debenture, bond, conditional sale or equipment trust agreement, letter of credit agreement, loan agreement or other contract or commitment for the borrowing or lending of money (including loans to or from officers, directors, shareholders or any members of their immediate families), agreement or arrangement for a line of credit, or guarantee, pledge or undertaking of the indebtedness of any other person;

(vii) Contracts for any capital expenditure in excess of $1,000,000; or

(viii) Contracts limiting or restraining the Company or any of its Subsidiaries from engaging or competing in any lines of business with any person (other than Contracts entered into in the ordinary course of business that do not, and would not reasonably be expected to, materially impair the operation of the Company’s business as currently operated and currently contemplated to be operated);

other than, in each of the foregoing clauses (i) through (viii), Contracts that are terminable on less than 90 days’ notice without penalty.

(b) Section 5.17(b) of the Company Disclosure Schedule set forth a true and correct list as of the date of this Agreement of all Company Material Contracts not otherwise disclosed in the Company SEC Documents. The Company has made available to Parent a true and complete copy of each such Company Material Contract.

(c) Neither the Company nor any Subsidiary of the Company is in breach of or default under (nor to the Knowledge of the Company does there exist any condition which upon the passage of time or the giving of notice or both would cause such a violation of or default under) the terms of any Company Material Contract where such breach or default would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. To the Knowledge of the Company, no other party to any Company Material Contract is in breach of or in default under the terms of any Company Material Contract where such breach or default would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each Company Material Contract is a valid and binding obligation of the Company or the Subsidiary of the Company which is party thereto and, to the Knowledge of the Company, of each other party thereto, and is in full force and effect, subject to the Bankruptcy and Equity Exception.

Section 5.18. *Information in SEC Filings*.

(a) *Information in Proxy Statement.* The Proxy Statement will not, at the date it is first mailed to the Company's shareholders and at the time of the Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated in the Proxy Statement or necessary in order to make the statements in the Proxy Statement, in light of the circumstances under which they are made, not misleading. The Proxy Statement will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder. Notwithstanding anything to the contrary in this Section 5.18, no representation or warranty is made by the Company with respect to information contained or incorporated by reference in the Proxy Statement supplied by or on behalf of Parent or Merger Sub specifically for inclusion or incorporation by reference in the Proxy Statement.

(b) *Information in Schedule 14D-9 and the Offer Documents*. The information supplied by the Company expressly for inclusion in the Offer Documents (and any amendment or supplement thereto) will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The Schedule 14D-9 will comply as to form in all material respects with the provisions of Rule 14d-9 of the Exchange Act and any other applicable federal securities Laws and will not, when filed with the SEC or distributed or disseminated to the Company's shareholders, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, except that the Company makes no representation or warranty with respect to statements made in the Schedule 14D-9 based on information furnished by Parent or Merger Sub expressly for inclusion therein.

Section 5.19. *Brokers and Finders*. Except for the Company Financial Advisor, neither the Company nor any of its Subsidiaries has employed any investment banker, broker or finder in connection with the transactions contemplated by this Agreement who might be entitled to any fee or any commission in connection with or upon consummation of the Offer, the Merger or the other transactions contemplated by this Agreement. The Company has made available to Parent an accurate and complete summary of its fee arrangement with the Company Financial Advisor.

Section 5.20. *No Other Representations and Warranties*. Except for the representations and warranties contained in this Article 5, neither the Company nor any other Person makes any other express or implied representation or warranty on behalf of the Company or any of its Affiliates. Without limiting the generality of the foregoing, and notwithstanding the delivery or disclosure to Parent or Merger Sub, or any of their respective Representatives or Affiliates of any documentation or other information by the Company or any of its Subsidiaries or any of its or their Representatives with respect to any one or more of the following, neither the Company nor any other Person make any express or implied representation or warranty on behalf of the Company or any other Person with respect to any projections, forecasts or other estimates, plans or budgets of future revenues, expenses or expenditures, future results of operations (or any component thereof), future cash flows (or any component thereof) or future financial condition (or any component thereof) of the Company or any of its Subsidiaries or the future business, operations or affairs of the Company or any of its Subsidiaries heretofore or hereafter delivered to or made available to Parent, Merger Sub or

any of their respective Representatives or Affiliates. Parent and Merger Sub agree to not rely and to not have relied on any representations or warranties whatsoever regarding the subject matter of this Agreement, express or implied, except as provided in this Article 5.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub each hereby represent and warrant to the Company that:

Section 6.01. *Organization, Good Standing and Qualification*. Each of Parent and Merger Sub is a legal entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the Laws of the jurisdiction of its organization and has the requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing (with respect to jurisdictions that recognize the concept of good standing) as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where any such failure to be so qualified or in good standing as a foreign corporation or to have such power or authority is not, individually or in the aggregate, reasonably likely to prevent, materially delay or materially impede the ability of Parent and Merger Sub to consummate the Offer, the Merger and the other transactions contemplated by this Agreement. Parent has made available to the Company complete and correct copies of the articles of incorporation and bylaws of Merger Sub, each as amended through the date of this Agreement, and each as so made available is in full force and effect.

Section 6.02. *Corporate Authority*. The Board of Managers of Parent, at a meeting duly called and held, and the Board of Directors of Merger Sub, by resolutions duly adopted by unanimous written consent, have approved this Agreement, the Offer, the Merger and the other transactions contemplated by this Agreement. No vote of holders of capital stock of Parent is necessary to approve this Agreement, the Offer, the Merger or the other transactions contemplated by this Agreement. Each of Parent and Merger Sub has all requisite corporate power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the Offer, the Merger and the other transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by each of Parent and Merger Sub and constitutes a valid and binding agreement of Parent and Merger Sub enforceable against each of Parent and Merger Sub in accordance with its terms, subject to the Bankruptcy and Equity Exception.

Section 6.03. *Governmental Filings; No Violations; Etc.*

(a) Except for (i) compliance with, and filings under, the HSR Act, (ii) compliance with, and filings under, the Exchange Act and the Securities Act and the rules and regulations promulgated thereunder, including the filing with the SEC of the Schedule TO and, if the Shareholders Meeting is required pursuant to this Agreement, the Proxy Statement, (iii) compliance with state securities, takeover and "blue sky" Laws and the filing of documents with various state securities authorities that may be required in connection with the transactions contemplated hereby, including the filing by Merger Sub of the PA Takeover Notice accompanied by payment of the required filing fee, (iv) the filing with the Department of State of the Commonwealth of Pennsylvania the Articles of Merger, (v) compliance with the applicable requirements of the NYSE MKT, and (vi) compliance with the applicable requirements of any foreign antitrust laws (the items set forth above in clauses (i) through (vi), the "**Parent Required Governmental Approvals**"), no notices, reports or other filings are required to be made by Parent or Merger Sub with, nor are any consents, registrations, approvals or authorizations required to be obtained by Parent or Merger Sub from any Governmental Entity in connection with the execution, delivery and performance of this Agreement by Parent and Merger Sub or the consummation of the Offer, the Merger and the other transactions contemplated by this Agreement, except those that the failure to make or obtain, as the case may be, is not, individually or in the aggregate, reasonably likely to prevent, materially delay or materially impede the consummation of the Offer, the Merger or the other transactions contemplated by this Agreement.

(b) The execution, delivery and performance of this Agreement by each of Parent and Merger Sub does not, and the consummation of the Offer, the Merger and the other transactions contemplated hereby will not, constitute or result in (i) a breach or violation of, or a default under, the respective certificates of incorporation, bylaws or comparable governing documents of Parent or any of its Subsidiaries, (ii) with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any of their respective obligations under or the creation of a Lien on any of the assets of Parent or any of its Subsidiaries pursuant to any Contract binding upon Parent or any of its Subsidiaries, or, assuming (solely with respect to performance of this Agreement and consummation of the Offer, the Merger and the other transactions contemplate