
From: Matthew P Salerno [MSalerno@cgsh.com]
Sent: Sunday, September 14, 2008 9:04 AM
To: cohenhr@sullcrom.com; Cooper, Elizabeth A; Finley, John G
Cc: SerotaD@sullcrom.com; Myers, Ken S.; Keller, Andy R; Koslowe, Jamin R; Davies, Michael; Martelli, Peter; Meyerson, Lee; Kohen, Julia; Dowd, Patrick M; Lewandowski, Edgar; Brown, Alvin H; Geller, Marcy G; Van Syoc, Rhett A; Eitel, Mitchell; ClaytonW@sullcrom.com; Victor I LEWKOW; Robert P DAVIS; Duane MCLAUGHLIN; Lillian Raben
Subject: Draft Documentation
Attachments: 1947991_3(Share Exchange Agreement).DOC; 1947994_3(Acquisition Agreement (CGSH draft)).DOC; 1947995_2(Stockholder Voting Agreement).DOC; 1948006_3(Credit Agreement (DRAFT)).DOC



1947991_3(Share Exchange Agree... 1947994_3(Acquisit... 1947995_2(Stockho... 1948006_3(Credit Agreement (DR...

Attached please find preliminary drafts of (i) an acquisition agreement; (ii) a stockholder voting agreement; (iii) a share exchange agreement and (iv) a potential loan agreement. Given the time constraints, the attached drafts are necessarily rough, are still being reviewed and refined internally, have not been shared with our client, and as a result, remain subject to further refinement, correction and revision in all respects. Please forward to anyone else in your organizations that should obtain a copy of these drafts.

Best regard,
Matt

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SHARE EXCHANGE AGREEMENT

by and between

[COMPANY]

and

[ACQUIROR]

Dated as of September [14], 2008

SHARE EXCHANGE AGREEMENT dated as of September [14], 2008 (this "Agreement") between [COMPANY], a Delaware corporation ("Company") and [ACQUIROR], a Delaware corporation ("Parent").

BACKGROUND

Concurrently, and in connection herewith, Parent and the Company are entering into an [Acquisition Agreement], dated September 14, 2008, (the "Acquisition Agreement") by and between the Company and Parent. Capitalized terms used but not defined herein shall have the meaning given to such terms in the Acquisition Agreement.

The Company desires to issue and sell (i) [] shares (the "Common Shares") of common stock, par value \$1.00 per share, of the Company (the "Common Stock") and (ii) [] shares (the "Preferred Shares") of preferred stock of the Company issued pursuant to a Certificate of Designation attached hereto as Exhibit A (the "Preferred Stock"), in exchange for [] ordinary shares of the Parent (the "Exchange Shares") in the form of American Depositary Shares each representing four 25p ordinary shares of Parent (the "Exchange Depositary Shares"), on the terms and subject to the conditions set forth herein (the "Exchange").

In consideration of the mutual covenants and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

ARTICLE I THE SHARES AND THE EXCHANGE SHARES

Section 1.01. The Common Stock. The Shares shall be issued to Parent, and the Exchange Shares shall be issued to the Company in the form of Exchange Depositary Shares, pursuant to Article II hereof.

ARTICLE II SHARE EXCHANGE

Section 2.01. Share Exchange. (a) Upon the terms and subject to (i) the delivery by Parent of a notice to the Company to cause the Share Exchange to occur (the "Parent Exercise Notice"), which notice may be given by Parent at any time in its sole discretion, and (ii) the conditions of this Agreement, the Company agrees to issue and sell to Parent, (A) [] Common Shares and (B) [] Preferred Shares, and in exchange therefor at the Share Exchange Closing, Parent shall issue to the Company [] Exchange Shares in the form of Exchange Depositary Shares.

(b) The numbers of Shares or Exchange Shares set forth in Section 2.01(a) shall be subject to appropriate and proportionate adjustments in the event that, subsequent to the date of this Agreement but prior to the Share Exchange Closing, the outstanding Common Stock of the Company or the Exchange Shares of the Parent shall have been increased, decreased, changed into or exchanged for a different number or kind of shares or securities through a reorganization, recapitalization, reclassification, stock dividend,

stock split, reverse stock split, or other like changes in the capitalization of the Company or the Parent, as applicable.

Section 2.02. Share Exchange Closing.

(a) The Company will deliver a certificate representing the Common Shares and the Preferred Shares registered in the name of Parent, and Parent will deliver an American Depositary Receipt representing the Exchange Shares in the form of Exchange Depositary Shares and registered in the name of the Company. Subject to (i) the prior delivery by Parent of the Parent Exercise Notice and (ii) the satisfaction of the conditions set forth in Article VI, the time and date of such deliveries shall be 10:00 a.m., New York City time, on a date and at a place to be specified by the parties (the “Share Exchange Closing”), which date shall be no later than the day after the latest to occur of the delivery of the Parent Exercise Notice and the satisfaction or waiver of the conditions set forth in Article VI.

(b) The documents to be delivered at the Share Exchange Closing by or on behalf of the parties hereto pursuant to this Article II and any additional documents requested by Parent pursuant to Article VI, will be delivered at the Share Exchange Closing at the offices of Parent at [].

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Parent as of the date hereof and as of the Share Exchange Closing that:

Section 3.01. Existence and Power. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Company has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary.

Section 3.02. Capitalization. [The authorized capital stock of the Company consists of 1,200,000,000 shares of Company Common Stock and 24,999,000 shares of Company Preferred Stock. As of the close of business on August 31, 2008 (the “Capitalization Date”), there were 689,030,169 shares of Company Common Stock outstanding, [7,557,000] shares of Company Preferred Stock outstanding, consisting of [500,000] shares of Company Series C Preferred Stock, [40,000] shares of Company Series D Preferred Stock, [138,000] shares of Company Series F Preferred Stock, [120,000] shares of Company Series G Preferred Stock, [759,000] shares of Company Series J Preferred Stock, 4,000,000 shares of Company Series P Preferred Stock and 2,000,000 shares of Company Series Q Preferred Stock. As of the close of business on the Capitalization Date, no shares of Company Common Stock or Company Preferred Stock were reserved or to be made available for issuance, except for (i) [] shares of Company Common Stock reserved or to be made available for issuance upon the exercise of

Company Options or conversion of other Company Stock-Based Awards pursuant to the Company Stock Plans, (ii) 212,540,000 shares of Company Common Stock reserved or to be made available for issuance upon conversion of the Company Series P Preferred Stock, (iii) 71,428,400 shares of Company Common Stock (including 60,243,989 treasury shares) reserved or to be made available for issuance upon conversion of the Company Series Q Preferred Stock, (iv) 10,000 shares of Company Preferred Stock designated as Non-Cumulative Perpetual Preferred Stock, Series H, reserved or to be made available for issuance in accordance with the stock purchase contract that is a component of the Company's outstanding 5.857% Mandatory Capital Advantaged Preferred Securities, and (v) 5,000 shares of Company Preferred Stock designated as Non-Cumulative Perpetual Preferred Stock, Series I, reserved or to be made available for issuance in accordance with the stock purchase contract that is a component of the Company's outstanding Floating Rate Mandatory Capital Advantaged Preferred Securities. All of the issued and outstanding shares of Company Common Stock and Company Preferred Stock have been, and all of the Preferred Shares will be as of the Share Exchange Closing Date, duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. As of the date of this Agreement, except (i) the withholding of shares by the Company to cover tax withholding obligations under Company Stock Plans, and (ii) as set forth elsewhere in this Section Section 3.02, the Company does not have and is not bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of Company Common Stock or Company Preferred Stock or any other equity securities of the Company or any securities representing the right to purchase or otherwise receive any shares of the Company capital stock (including any rights plan or agreement). Since the Capitalization Date, and except for issuances permitted by the Acquisition Agreement, the Company has not (i) issued or repurchased any shares of its capital stock or any securities convertible into or exercisable for any shares of its capital stock, other than upon the exercise of stock options or other Company Stock-Based Awards granted prior to such date and disclosed in this Section Section 3.02 or pursuant to the surrender of shares to the Company or the withholding of shares by the Company to cover tax withholding obligations under the Company Stock Plans, or (ii) issued or awarded any options, restricted stock units, restricted shares or other equity-based awards under the Company Stock Plans.]¹ As of the date hereof, the Common Shares are all of the authorized shares of Company common stock other than those shares that are either issued and outstanding or reserved for issuance.

Section 3.03. Authorization. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of the Company, and this Agreement is a valid and binding obligation of the Company, enforceable against it in accordance with their terms.

Section 3.04. Board Approvals. The transactions contemplated by this Agreement, including without limitation the issuance of the Shares and the compliance with the terms of this Agreement, have been unanimously adopted, approved and declared advisable unanimously by the Board of Directors of the Company. No stockholder vote is required to issue the Shares, including under Para. 312.03 of the NYSE Listed Company Manual.

¹ To conform to the Acquisition Agreement.

Section 3.05. Valid Issuance of Common Stock. The Shares have been duly authorized by all necessary corporate action. When issued and sold against receipt of the consideration therefor, the Shares will be validly issued, fully paid and nonassessable, will not subject the holders thereof to personal liability and will not be issued in violation of preemptive rights.

Section 3.06. Non-Contravention. The execution, delivery and performance of this Agreement, and the consummation by the Company of the transactions contemplated hereby, will not conflict with, violate or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under, or result in the termination of or accelerate the performance required by, or result in a right of termination or acceleration under, any provision of the Restated Certificate of Incorporation or By-laws of the Company or the certificate of incorporation, charter, by-laws or other governing instrument of any Subsidiary of the Company.

Section 3.07. Purchase for Own Account. The Company is acquiring the Exchange Shares for its own account and not with a view to the distribution thereof in violation of the Securities Act of 1933, as amended, and the rules and regulations of the Securities and Exchange Commission (the "SEC") promulgated thereunder (the "Securities Act").

Section 3.08. Private Placement. The Company understands that (i) the Exchange Shares have not been registered under the Securities Act or any state securities laws, by reason of their issuance by Parent in a transaction exempt from the registration requirements thereof and (ii) the Exchange Shares may not be sold unless such disposition is registered under the Securities Act and applicable state securities laws or is exempt from registration thereunder. The Company represents that it is an institutional "accredited investor" (as defined in Rule 501(a) of Regulation D under the Securities Act).

Section 3.09. Legend. Each American Depositary Receipt representing an Exchange Share in the form of Exchange Depositary Shares will bear a legend to the following effect unless Parent determines otherwise in compliance with applicable law:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SHARES HAVE BEEN ACQUIRED FOR INVESTMENT AND NEITHER THIS SHARE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT."

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF PARENT

Parent represents and warrants to the Company as of the date hereof and as of the Share Exchange Closing that:

Section 4.01. Existence and Power. Parent is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to enter into and perform its obligations under this Agreement.

Section 4.02. Authorization. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of Parent, and this Agreement is a valid and binding obligation of Parent, enforceable against it in accordance with its terms.

Section 4.03. Valid Issuance. The Exchange Shares have been duly authorized by all necessary corporate action. When issued and sold against receipt of the consideration therefor, the Exchange Shares will be validly issued, fully paid and nonassessable, will not subject the holders thereof to personal liability and will not be issued in violation of preemptive rights.

Section 4.04. Non-Contravention. The execution, delivery and performance of this Agreement will not conflict with, violate or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both would constitute a default) under, or result in the termination of or accelerate the performance required by, or result in a right of termination or acceleration under, any provision of the organizational or governing documents of Parent.

Section 4.05. Purchase for Own Account. Parent is acquiring the Shares for its own account and not with a view to the distribution thereof in violation of the Securities Act.

Section 4.06. Private Placement. Parent understands that (i) the Shares have not been registered under the Securities Act or any state securities laws, by reason of their issuance by the Company in a transaction exempt from the registration requirements thereof and (ii) the Shares may not be sold unless such disposition is registered under the Securities Act and applicable state securities laws or is exempt from registration thereunder. Parent represents that it is an institutional "accredited investor" (as defined in Rule 501(a) of Regulation D under the Securities Act).

Section 4.07. Legend. Each certificate representing a Share will bear a legend to the following effect unless the Company determines otherwise in compliance with applicable law:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SHARES HAVE BEEN ACQUIRED FOR INVESTMENT AND NEITHER THIS SHARE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT."

ARTICLE V
ADDITIONAL AGREEMENTS²

Section 5.01. Company Agreement. The Company agrees to hold the Exchange Shares for investment and none of the Exchange Shares or any interest therein may be reoffered, sold, assigned, transferred, pledged, encumbered or otherwise disposed of (i) for a period of six months from the Share Exchange Closing and (ii) thereafter, in the absence of registration under the Securities Act or unless such transaction is exempt from, or not subject to, the registration requirements of the Securities Act.

Section 5.02. Parent Agreement. The Parent agrees to hold the Shares for investment and none of the Shares or any interest therein may be reoffered, sold, assigned, transferred, pledged, encumbered or otherwise disposed of in the absence of registration under the Securities Act or unless such transaction is exempt from, or not subject to, the registration requirements of the Securities Act.

ARTICLE VI
CONDITIONS TO SHARE EXCHANGE CLOSING

Section 6.01. Conditions to Each Party's Obligation To Effect the Exchange. The respective obligations of the parties hereunder to effect the Exchange shall be subject to the following condition:

(a) No Injunctions or Restraints; Illegality. No order, injunction or decree issued by any court or agency of competent jurisdiction or other law preventing or making illegal the consummation of the Exchange shall be in effect.

Section 6.02. Conditions to the Obligations of Parent. The obligations of Parent hereunder to effect the Exchange shall be subject to the satisfaction, or waiver by Parent, of the following conditions:

(a) No Injunctions or Restraints; Illegality. No order, injunction or decree issued by any court or agency of competent jurisdiction or other law preventing or making illegal Parent's unrestricted and unlimited right to vote the Shares shall be in effect.

(b) Regulatory Approvals. All regulatory approvals the failure of which to obtain would reasonably be expected to materially impede or impair Parent's ability to acquire or vote the Shares, in each case required to consummate the transactions contemplated by this Agreement, including the Exchange, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired.

ARTICLE VII
TERMINATION

² To conform to the Acquisition Agreement.

Section 7.01. Injunction; Illegality. This Agreement may be terminated at any time prior to the Share Exchange Closing by Parent (a) if an order, injunction or decree shall have been issued by any court or agency of competent jurisdiction and shall be nonappealable, or other law shall have been issued preventing or making illegal either (i) the completion of the Exchange or the other transactions contemplated by this Agreement, or (ii) Parent's unrestricted and unlimited right to vote the Shares or (b) the Acquisition Agreement terminates pursuant to its terms.

ARTICLE VIII
MISCELLANEOUS

Section 8.01. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or by facsimile or seven days after having been sent by certified mail, return receipt requested, postage prepaid, to the parties to this Agreement at the following address or to such other address either party to this Agreement shall specify by notice to the other party:

- (a) (i) if to Company, to:

[Name]
[Address]
Attention: []
Facsimile: []

with a copy to:

[Name]
[Address]
Attention: []
Facsimile: []

- (b) if to Purchaser, to:

[Name]
[Address]
Attention: []
Facsimile: []

with a copy to:

[Name]
[Address]
Attention: []
Facsimile: []

Section 8.02. Further Assurances. Each party hereto shall do and perform or cause to be done and performed all further acts and shall execute and deliver all other agreements, certificates, instruments and documents as any other party hereto reasonably may request in

order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Section 8.03. Amendments and Waivers. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is duly executed and delivered by the Company and Parent. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 8.04. Fees and Expenses. Each party hereto shall pay all of its own fees and expenses (including attorneys' fees) incurred in connection with this Agreement and the transactions contemplated hereby.

Section 8.05. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that neither party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

Section 8.06. Governing Law. This Agreement shall be governed and construed in accordance with the internal laws of the State of Delaware applicable to contracts made and wholly-performed within such state, without regard to any applicable conflicts of law principles. The parties hereto agree that any suit, action or proceeding brought by either party to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal or state court located in the State of Delaware. Each of the parties hereto submits to the jurisdiction of any such court in any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of, or in connection with, this Agreement or the transactions contemplated hereby and hereby irrevocably waives the benefit of jurisdiction derived from present or future domicile or otherwise in such action or proceeding. Each party hereto irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

Section 8.07. Waiver Of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.08. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties and/or their affiliates with respect to the subject matter of this Agreement.

Section 8.09. Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 8.10. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be deemed to be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforced in accordance with its terms to the maximum extent permitted by law.

Section 8.11. Counterparts; Third Party Beneficiaries. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same instrument. No provision of this Agreement shall confer upon any person other than the parties hereto any rights or remedies hereunder.

Section 8.12. Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to seek specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

[COMPANY]

By: _____
Name:
Title:

[ACQUIROR]

By: _____
Name:
Title:

[Share Exchange Agreement Signature Page]

ACQUISITION AGREEMENT

BETWEEN

□

AND

□

DATED AS OF

SEPTEMBER [], 2008

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[TO COME]

EXHIBITS

[to come]

ACQUISITION AGREEMENT

ACQUISITION AGREEMENT, dated as of September [], 2008 (this “Agreement”), between [] (“Purchaser”), a public limited company organized under the laws of England,, and [] (“Seller”), a Delaware corporation.

W I T N E S S E T H :

WHEREAS, upon the terms and subject to the conditions hereinafter set forth, Seller desires to sell to Purchaser, and Purchaser desires to purchase from Seller, the Acquired Assets;

WHEREAS, upon the terms and subject to the conditions hereinafter set forth, Seller desires to assign to Purchaser, and Purchaser desires to assume from Seller, the Acquired Liabilities;

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

ARTICLE I DEFINITIONS{ TC "ARTICLE I DEFINITIONS" \L "1" \Y}

1.1 Definitions{ TC "1.1 Definitions" \l "2" \y}. For purposes of this Agreement:

“Acquired Assets{ XE "Acquired Assets" }

” means all of the assets and properties of Seller, including, without limitation, the assets set forth on Exhibit [],¹ other than Excluded Assets.

“Acquired Entity”

“Acquired Liabilities{ XE "Acquired Liabilities" }

” means all of the liabilities and obligations of Seller other than Excluded Liabilities.

“affiliate{ XE "affiliate" }

” means, as to any person, any other person, which, directly or indirectly, controls, is controlled by, or is under common control with, such person. For the purposes of this definition, “control” means the possession of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by contract or otherwise.

“business day{ XE "business day" }

” shall mean any day that is not a Saturday, a Sunday or other day on which banking institutions located in New York, New York are permitted or required by law, executive order or governmental decree to remain closed.

¹ Exhibit will include, among other things, such items as all cash, any B stock exchanged pursuant to the share exchange agreement and [].

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Contest” has the meaning set forth in Section _____

“Consolidated Tax Returns” has the meaning set forth in Section _____

“Cut-Off Date” has the meaning set forth in Section _____

“Equity Interests{ XE "Equity Interests" }” means [_____].

“Excluded Assets{ XE "Excluded Assets" }” means all of the (i) assets and properties of Seller solely related to [*assets to be described*] and (ii) set forth in Exhibit [●].

“Excluded Entity{ XE "Excluded Entity" }” means

“Excluded Liabilities{ XE "Excluded Liabilities" }” means all of the liabilities and obligations of Seller (i) primarily related to the Excluded Assets and (ii) those liabilities set forth in Exhibit [●].

“Permitted Liens{ XE "Permitted Liens" }” means [_____].

“person” means any individual, corporation, limited liability company, partnership, association, trust, estate or other entity or organization, including any Governmental Entity.

“Purchaser Taxes” has the meaning set forth in Section _____

“Seller Stock Plans” means the [Long Island] 1994 Management Ownership Plan, [Long Island] 1996 Management Ownership Plan, [Long Island] Employee Incentive Plan, 1999 [NB] Long-Term Incentive Plan, and [Long Island] 2005 Stock Incentive Plan.

“Seller Stock-Based Award” means each right of any kind, contingent or accrued, to receive shares of Seller Common Stock or benefits measured by the value of a number of shares of Seller Common Stock, and each award of any kind consisting of shares of Seller Common Stock, granted under the Seller Stock Plans (including restricted stock, restricted stock units, deferred stock units, phantom stock units and dividend equivalents), other than options granted by Seller to purchase Seller Common Stock.

“Seller Taxes” has the meaning set forth in Section _____

“Tax” or “Taxes” shall mean all taxes, charges, levies, penalties or other assessments imposed by any United States federal, state, local or foreign taxing authority, including any income, excise, property, sales, transfer, franchise, payroll, withholding, social security or other taxes, together with any interest or penalties attributable thereto.

“Tax Claim” has the meaning set forth in Section _____

“Tax Returns” shall mean any return, report, information return or other document (including any related or supporting information) required to be filed with any Tax authority with respect to Taxes, including without limitation all information returns relating to Taxes of third parties, any claims for refunds of Taxes and any amendments or supplements to any of the foregoing.

“Transfer Taxes” means all sales, use, real property transfer, real property gains, transfer, stamp, registration, documentary, recording, filing or similar Taxes, if any, together with any interest thereon, penalties, fines, costs, fees, additions to Tax or additional amounts with respect thereto.

ARTICLE II
SALE AND PURCHASE; CLOSING{ TC "ARTICLE II
SALE AND PURCHASE" \L "1" \Y}

2.1 Acquired Assets and Acquired Liabilities.{ TC "2.2 Acquired Assets, etc. at First Closing" \l "2" \y}. Upon the terms and subject to the conditions hereinafter set forth, at the Closing:

(a) Seller shall sell, convey, transfer and deliver to Purchaser, and Purchaser shall purchase from Seller, free and clear of all Liens (other than with respect to Acquired Assets other than the Equity Interests, Permitted Liens), all of the Acquired Assets; and

(b) Seller shall assign to Purchaser, and Purchaser shall assume from Seller, all of the Acquired Liabilities.

2.2 Consideration; Payment at Closing.{ TC "3.1 Deposit; Amount and Form of Consideration" \l "2" \y}. Subject to the terms and conditions of this Agreement, at the Closing, in consideration of the aforesaid sale, conveyance, transfer and delivery to Purchaser of the Acquired Assets, Purchaser shall (i) issue to Seller [\bullet]² American Depositary Shares of Purchaser (the “Stock Consideration”), each representing four 25p ordinary shares of Purchaser (the “Purchaser Ordinary Shares”) and (ii) assume the Acquired Liabilities. The sale, conveyance, transfer and delivery to Purchaser of the Acquired Assets against delivery of the Stock Consideration and assumption by Purchaser of the Acquired Liabilities is hereinafter referred to as, the “Sale”.

2.3 Accounting.{ TC "3.5 Accounting" \l "2" \y}. Except as may be otherwise provided in any other Transaction Document, to the extent that, after the Closing: (a) Purchaser or any of its Subsidiaries receives any payment that is for the account of Seller or any of its Subsidiaries according to the terms of this Agreement, or Seller or any of its Subsidiaries makes a payment on behalf of Purchaser or any of its Subsidiaries according to the terms of this Agreement, Purchaser will promptly deliver the amount of such payment to Seller; or (b) Seller or any of its Subsidiaries receives any payment that is for the account of Purchaser or any of its Subsidiaries according to the terms of this Agreement, or Purchaser or any of its Subsidiaries makes a payment on behalf of Seller or any of its Subsidiaries, Seller will promptly deliver the

² NTD: The method for fixing and timing for fixing the number of shares remains under consideration.

amount of such payment to Purchaser. All amounts due and payable under this Section 2.3 will be paid by the applicable Party in immediately available funds.

2.4 Allocation for Tax Purposes{ TC "3.6 Allocation for Tax Purposes" \l "2" \y}. For U.S. federal income tax purposes, Purchaser and Seller agree that the consideration paid in accordance with Section 2.2 shall be allocated among the Acquired Assets, the Acquired Companies, and the Acquired Liabilities in accordance with Applicable Law (the "Allocation"). The Allocation shall be mutually agreed upon by Purchaser and Seller in good faith, within [] days after the Closing Date. Purchaser and Seller agree that (i) they shall file all U.S. federal, state, and other Tax Returns and other forms consistent with the Allocation, and shall report the transactions contemplated by this Agreement in a manner consistent with the Allocation, except as may otherwise be required by Applicable Law; (ii) [any subsequent adjustments to the consideration paid in accordance with Section 2.2 shall be reflected in the Allocation in a manner consistent with the Allocation and Applicable Law], (iii) Purchaser and Seller and their respective Affiliates shall cooperate with each other in preparing any U.S. Tax filings or other forms required to be filed in connection with the transactions contemplated hereby, and agree to consult with one another with respect to any Tax audit, controversy or litigation relating to the Allocation by the IRS or another Tax authority.

2.5 Closing{ TC "5.1 Closing Dates" \l "2" \y}. The closing of the transactions contemplated by Section 2.1 (the "Closing") shall take place at the offices of Cleary Gottlieb Steen & Hamilton LLP, New York, New York, on the third business day following the date on which all of the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but subject to fulfillment or waiver of those conditions) contained in Article VII have been satisfied or waived by the parties entitled hereto or at such other place and at such other time and date as may be mutually agreed upon by Purchaser and Seller.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER³

Except as disclosed in (i) the Seller's Annual Report on Form 10-K for the year ended November 30, 2007, as filed on January 29, 2008 (the "2007 10-K"), (ii) the Seller's Quarterly Reports on Form 10-Q for the quarterly period ended February 29, 2008, as filed on April 9, 2008, and for the quarterly period ended May 31, 2008, as filed on July 10, 2008, and (iii) the Seller's Current Reports on Form 8-K filed with the SEC after July 10, 2008 (but in each case excluding any risk factor disclosures contained under the heading "Risk Factors," any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly non-specific or predictive or forward-looking in nature) to the extent that it is reasonably apparent on the face of the disclosed information that such disclosure is of an exception to one or more of the following representations and warranties contained in this Article III, Seller hereby represents and warrants to Purchaser as follows (solely as of the date hereof except in the case of the representations and warranties set forth in [Sections 3.2(a), 3.2(b), 3.2(c), 3.3(a), 3.3(b)(i), 3.7, 3.10, 3.13, 3.15 and 3.16]):

³ NTD: Once the entities that will be sellers in the transaction are identified, representations, warranties and other provisions in the agreement may be modified to accurately capture the mechanics of the transaction.

3.1 Corporate Organization. (a) Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Seller has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary.

(b) True, complete and correct copies of the Restated Certificate of Incorporation and Bylaws of Seller, in effect on the date of this Agreement, have previously been publicly filed by the Seller and are available to Purchaser.

(c) Each person whose capital stock or other equity interests are included in the Acquired Assets (each, an "Acquired Entity"): (i) is duly organized and validly existing under the laws of its jurisdiction of organization; (ii) is duly licensed or qualified to do business and is in good standing in all jurisdictions (whether federal, state, local or foreign) where the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary; and (iii) has all requisite corporate power and authority or other power and authority to own or lease its properties and assets and to carry on its business as now conducted, in the case of each of clauses (i), (ii) and (iii), except as would not reasonably be expected to have a Material Adverse Effect on Seller.

(d) As used in this Agreement, the term "Material Adverse Effect{ XE "Material Adverse Effect" }" means, with respect to Purchaser or Seller, as the case may be, a material adverse effect on (i) the financial condition, results of operations or business of such party and its Subsidiaries taken as a whole (provided, however, that, with respect to this clause (i), a "Material Adverse Effect" shall not be deemed to include effects arising out of, relating to or resulting from (A) changes, after the date hereof, in U.S. generally accepted accounting principles ("GAAP{ XE "GAAP" }") or regulatory accounting requirements applicable generally to companies in the industries in which such party and its Subsidiaries operate, (B) changes, after the date hereof, in laws, rules or regulations of general applicability to companies in the industries in which such party and its Subsidiaries operate, (C) changes, after the date hereof, in global or national political conditions or general economic or market conditions affecting other companies in the industries in which such party and its Subsidiaries operate, (D) changes, after the date hereof, in the credit markets, any downgrades in the credit markets, or adverse credit events resulting in deterioration in the credit markets generally and in respect of the customers of the Seller, (E) failure, in and of itself, to meet earnings projections (but not the underlying causes thereof), (F) the impact of the Sale on relationships with customers or employees, (G) the public disclosure of this Agreement or the transactions contemplated hereby or the consummation of the transactions contemplated hereby solely to the extent Seller demonstrates such effect to have so resulted from such disclosure or consummation, or (H) any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism or (ii) the ability of such party to timely consummate the transactions contemplated by this Agreement or the Transaction Documents.

(e) For purposes of this Agreement, "Subsidiary" means, with respect to any person, any corporation, partnership, joint venture, limited liability company or any other entity that is consolidated with such person for financial reporting purposes under GAAP, and "Significant

Subsidiary” means, as to any person, a Subsidiary that is a “significant subsidiary” within the meaning of Rule 1-02 of Regulation S-X of the SEC.

3.2 Capitalization.

(a) The authorized capital stock of Seller consists of 1,200,000,000 shares of common stock, \$0.10 par value, of Seller (the “Seller Common Stock”) and 24,999,000 shares of preferred stock, \$1.00 par value, of Seller (the “Seller Preferred Stock”). As of the close of business on September [], 2008 (the “Capitalization Date”), there were 689,030,169 shares of Seller Common Stock outstanding and [7,557,000] shares of Seller Preferred Stock outstanding, consisting of [500,000] shares of Seller Series C Preferred Stock, [40,000] shares of Seller Series D Preferred Stock, [138,000] shares of Seller Series F Preferred Stock, [120,000] shares of Seller Series G Preferred Stock, [759,000] shares of Seller Series J Preferred Stock, 4,000,000 shares of Seller Series P Preferred Stock and 2,000,000 shares of Seller Series Q Preferred Stock. As of the close of business on the Capitalization Date, no shares of Seller Common Stock or Seller Preferred Stock were reserved or to be made available for issuance, except for (i) [] shares of Seller Common Stock reserved or to be made available for issuance upon the exercise of Seller Options or conversion of other Seller Stock-Based Awards pursuant to the Seller Stock Plans, (ii) 212,540,000 shares of Seller Common Stock reserved or to be made available for issuance upon conversion of the Seller Series P Preferred Stock, (iii) 71,428,400 shares of Seller Common Stock (including 60,243,989 treasury shares) reserved or to be made available for issuance upon conversion of the Seller Series Q Preferred Stock, [(iv) 10,000 shares of Seller Preferred Stock designated as Non-Cumulative Perpetual Preferred Stock, Series H, reserved or to be made available for issuance in accordance with the stock purchase contract that is a component of Seller’s outstanding 5.857% Mandatory Capital Advantaged Preferred Securities, and (v) 5,000 shares of Seller Preferred Stock designated as Non-Cumulative Perpetual Preferred Stock, Series I, reserved or to be made available for issuance in accordance with the stock purchase contract that is a component of Seller’s outstanding Floating Rate Mandatory Capital Advantaged Preferred Securities. All of the issued and outstanding shares of Seller Common Stock and Seller Preferred Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof.] As of the date of this Agreement, except (1) the withholding of shares by Seller to cover tax withholding obligations under Seller Stock Plans, and (2) as set forth elsewhere in this Section 3.2(a), Seller does not have and is not bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of Seller Common Stock or Seller Preferred Stock or any other equity securities of Seller or any securities representing the right to purchase or otherwise receive any shares of Seller capital stock (including any rights plan or agreement). Since the Capitalization Date, and except for issuances permitted by Section 5.2, Seller has not (x) issued or repurchased any shares of its capital stock or any securities convertible into or exercisable for any shares of its capital stock, other than upon the exercise of stock options or other Seller Stock-Based Awards granted prior to such date and disclosed in this Section 3.2(a) or pursuant to the surrender of shares to Seller or the withholding of shares by Seller to cover tax withholding obligations under the Seller Stock Plans, or (y) issued or awarded any options, restricted stock units, restricted shares or other equity-based awards under the Seller Stock Plans.

(b) Exhibit 21 to Seller's the 2007 10-K sets forth a correct and complete list of all Seller's Significant Subsidiaries (as defined in Rule 1-02(w) of Regulation S-X) as of November 30, 2007. Except for directors' qualifying shares, Seller owns, directly or indirectly, all of the issued and outstanding shares of capital stock of or all other equity interests in each of Seller's Significant Subsidiaries and in each Acquired Entity, free and clear of any liens, charges, encumbrances, adverse rights or claims and security interests whatsoever ("Liens"), and all of such shares are duly authorized and validly issued and are fully paid, non-assessable and free of preemptive rights, with no personal liability attaching to the ownership thereof.

(c) No bonds, debentures, notes or other indebtedness having the right to vote on any matters on which stockholders of Seller may vote ("Voting Debt" { XE "Voting Debt" }) are issued or outstanding.

3.3 Authority; No Violation. (a) Seller has full corporate power and authority to execute and deliver this Agreement and the Transaction Documents and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby, including the Sale, have been duly and validly approved by the Board of Directors of Seller. The Board of Directors of Seller has determined that this Agreement and the Sale are advisable, expedient and in the best interests of Seller and its stockholders and has directed that the Sale be submitted to Seller's stockholders for approval and authorization at a duly held meeting of such stockholders and has adopted a resolution to the foregoing effect. Except for the approval and authorization of the Sale, pursuant to Section 271 of the General Corporation law of the State of Delaware (the "DGCL" { XE "DGCL" }") by the affirmative vote of the holders of a majority of the outstanding shares of Seller Common Stock entitled to vote at such meeting, no other corporate proceedings on the part of Seller are necessary to approve this Agreement, the Transaction Documents or to consummate the transactions (including the Sale) contemplated hereby or thereby. This Agreement and the Transaction Documents have been duly and validly executed and delivered by Seller and (assuming due authorization, execution and delivery by Purchaser) constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms (except as may be limited by bankruptcy, insolvency, fraudulent transfer, moratorium, reorganization or similar laws of general applicability relating to or affecting the rights of creditors generally and subject to general principles of equity (the "Bankruptcy and Equity Exception")).

(b) Neither the execution and delivery of this Agreement or the Transaction Documents by Seller nor the consummation by Seller of the transactions (including the Sale) contemplated hereby or thereby, nor compliance by Seller with any of the terms or provisions of this Agreement or any Transaction Document, will (i) violate any provision of Restated Certificate of Incorporation and Bylaws of Seller or (ii) assuming that the consents, approvals and filings referred to in Section 3.4 are duly obtained and/or made, (A) violate any law, judgment, order, injunction or decree applicable to Seller, any of its Subsidiaries or any Acquired Entity or any of their respective properties or assets or (B) violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of Seller or any Acquired

Entity or any of the Acquired Assets under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, franchise, permit, agreement, by-law or other instrument or obligation to which Seller or any of its Subsidiaries is a party or by which any of them or any of their respective properties or assets is bound except, with respect to clause (ii), any such violation, conflict, breach or default that would not reasonably be expected to cause a Material Adverse Effect on Seller.

3.4 Consents and Approvals. Except for (i) filings of applications and notices with, and receipt of consents, authorizations, approvals, exemptions or nonobjections from, the Securities and Exchange Commission (the "SEC"), the New York Stock Exchange ("NYSE"), foreign and state securities authorities, the Financial Industry Regulatory Authority ("FINRA"), the Commodities and Futures Trading Commission ("CFTC"), the Federal Energy Regulatory Commission ("FERC"), applicable securities, commodities and futures exchanges, the Financial Services Authority ("FSA") and other industry self-regulatory organizations ("SRO"), (ii) the filing of any other required applications, filings or notices with the Board of Governors of the Federal Reserve System (the "Federal Reserve"), any foreign, federal or state banking, other regulatory, self-regulatory or enforcement authorities or any courts, administrative agencies or commissions or other governmental authorities or instrumentalities (each a "Governmental Entity") and approval of or non-objection to such applications, filings and notices (taken together with the items listed in clause (i), the "Regulatory Approvals"), (iii) the filing with the SEC of a Proxy Statement in definitive form relating to the meeting of Seller's stockholders to be held in connection with this Agreement and the transactions contemplated by this Agreement [and the Transaction Documents] (the "Proxy Statement"), (iv) [any notices to or filings with the Small Business Administration (the "SBA"),] and (v) any notices or filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), no consents or approvals of or filings or registrations with any Governmental Entity are necessary in connection with performance by Seller in connection with its obligations hereunder or the consummation by Seller of the transactions contemplated by this Agreement (including the Sale) or by any Transaction Document. No consents or approvals of or filings or registrations with any Governmental Entity are necessary in connection with the execution and delivery by Seller of this Agreement or any Transaction Document.

3.5 Reports; Regulatory Matters.

(a) Seller and each of its Subsidiaries have timely filed all reports, registrations, statements and certifications, together with any amendments required to be made with respect thereto, that they were required to file since January 1, 2005 and prior to the date hereof with any of (i) FINRA, (ii) the SEC, (iii) the CFTC, (iv) the Federal Deposit Insurance Corporation, (v) the NYSE, (vi) any state consumer finance or mortgage banking regulatory authority or other Agency, (vii) any foreign regulatory authority, and (viii) any SRO (collectively, "Regulatory Agencies{ XE "Regulatory Agencies" }") and with each other applicable Governmental Entity, and all other reports and statements required to be filed by them since January 1, 2005 and prior to the date hereof, including any report or statement required to be filed pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency or other Governmental Entity, and have paid all fees and assessments due and payable in connection therewith.

(b) An accurate and complete copy of each (i) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC by Seller or any of its Subsidiaries pursuant to the Securities Act or the Securities Exchange Act of 1934, as amended (the “Exchange Act” XE “Exchange Act” ¶) since January 1, 2005 and prior to the date of this Agreement (the “Seller SEC Reports” XE “Seller SEC Reports” ¶) and (ii) communication mailed by Seller to its stockholders since January 1, 2005 and prior to the date of this Agreement is publicly available. No such Seller SEC Report or communication, at the time filed, furnished or communicated (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading, except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Seller SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. As of the date of this Agreement, no executive officer of Seller has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act” XE “Sarbanes-Oxley Act” ¶).

3.6 Financial Statements.

(a) The financial statements of Seller and its Subsidiaries included (or incorporated by reference) in the Seller SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of Seller and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders’ equity and consolidated financial position of Seller and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount), (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, and (iv) have been prepared in accordance with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto. As of the date hereof, the books and records of Seller and its Subsidiaries have been maintained in all material respects in accordance with GAAP and any other applicable legal and accounting requirements and reflect only actual transactions. As of the date hereof, Ernst & Young LLP has not resigned or been dismissed as independent public accountants of Seller as a result of or in connection with any disagreements with Seller on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

(b) The records, systems, controls, data and information of Seller and its Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the, exclusive ownership and direct control of Seller or its Subsidiaries or accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership and non-direct control that would not reasonably be expected to have a material adverse effect on Seller’s system of internal accounting controls.

3.7 Broker's Fees. Neither Seller nor any of its Subsidiaries nor any of their respective officers, directors, employees or agents has utilized any broker, finder or financial advisor or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Sale or any other transactions contemplated by this Agreement or the Transaction Documents, other than to [*name of financial advisor*] pursuant to letter agreements, true, complete and correct copies of which have been previously delivered to Purchaser.

3.8 Title to Acquired Assets. Seller or one of its Subsidiaries has good and valid title to, or a valid lease, license or right to use, all of the Acquired Assets free and clear of all Liens, other than, with respect to Acquired Assets other than the Equity Interests, Permitted Liens. Seller or one of its Subsidiaries is the record and beneficial owner of all the outstanding equity interests of the Acquired Entities, free and clear of all Liens.

3.9 Compliance with Applicable law. Seller and each of its Subsidiaries hold all licenses, franchises, permits and authorizations necessary for the lawful conduct of their respective businesses under and pursuant to each, and have complied with and are not in default in any respect under any, law applicable to Seller or any of its Subsidiaries, except for the failure to hold or to have complied with or to not be in default which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect on Seller.

3.10 State Takeover laws. The Board of Directors of Seller has unanimously approved this Agreement, the Transaction Documents and the transactions contemplated hereby and thereby as required to render inapplicable to this Agreement, the Transaction Documents and such transactions the restrictions on "business combinations" set forth in Section 203 of the DGCL or any other "moratorium," "control share," "fair price," "takeover" or "interested stockholder" law (any such laws, "Takeover Statutes{ XE "Takeover Statutes" }").

3.11 Broker-Dealer and Investment Advisory Matters.

(a) Each of Seller and its Subsidiaries and each of their respective officers and employees who are required to be registered, licensed or qualified as (i) a broker-dealer, investment adviser, futures commission merchant or (ii) a registered principal, registered representative, investment adviser representative, insurance agent or salesperson with the SEC or any securities or insurance commission or other Governmental Entity are duly registered as such and such registrations are in full force and effect, or are in the process of being registered as such within the time periods required by applicable law, except in each case for any failures to be so registered, licensed or qualified that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect on Seller. Each of Seller and its Subsidiaries and each of their respective officers and employees are in compliance with all applicable federal, state and foreign laws requiring any such registration, licensing or qualification, and are not subject to any liability or disability by reason of the failure to be so registered, licensed or qualified, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect on Seller.

(b) Each of Seller and its Subsidiaries, and, to the knowledge of Seller, its solicitors, third party administrators, managers, brokers and distributors, have marketed, sold and issued investment products and securities in compliance with all applicable laws governing sales

processes and practices, except in each case as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect on Seller.

3.12 Approvals. As of the date of this Agreement, Seller knows of no reason why all regulatory approvals from any Governmental Entity required for the consummation of the transactions contemplated by this Agreement or the Transaction Documents should not be obtained on a timely basis.

3.13 Opinion. The Board of Directors of Seller has received the opinion of [*name of financial advisor*], to the effect that, as of the date hereof, and based upon and subject to the factors and assumptions set forth therein, the Stock Consideration is fair from a financial point of view to Seller.

3.14 Solvency. On the Closing Date after giving effect to the Transaction, the Seller, together with its consolidated Subsidiaries, is Solvent, and the Seller has received an opinion to the effect that Seller is Solvent, from [*advisor*] that is (i) addressed to the Company Board of Directors and Purchaser and (ii) in form and substance reasonably satisfactory to Purchaser, a true, correct and complete copy of which has been delivered to Purchaser. “Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date both (i) (a) the fair value of the property of such person is greater than the total amount of liabilities, including contingent liabilities, of such person, (b) the present fair salable value of the assets of such person is not less than the amount that will be required to pay the probable liability of such person on its debts as they become absolute and matured, (c) such person has not incurred and does not intend to, and does not believe that it will, incur debts or liabilities beyond such person’s ability to pay such debts and liabilities as they mature and (d) such person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such person’s property would constitute an unreasonably small capital and (ii) such person is “solvent” within the meaning given that term and similar terms under applicable bankruptcy laws. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

3.15

3.16 Credit Support Commitment. [Representation regarding the delivery of the commitment letter regarding credit support to be provided by the street for assetsthat will remain with Seller and a revolving working capital facility to be effective by the Closing Date to be added.]

3.17 Securities Act Representations. (a) Seller is acquiring the Stock Consideration for its own account, and not with a view toward, or for sale in connection with, any distribution thereof in violation of any federal or state securities or “blue sky” law, or with any present intention of distributing or selling such Stock Consideration in violation of the Securities Act. Seller has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in such Stock Consideration and is

capable of bearing the economic risks of such investment. Seller has been provided a reasonable opportunity to undertake and has undertaken such investigation and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Agreement.

(b) Seller is acquiring the Stock Consideration for passive investment purposes only, and is not acquiring the Stock Consideration with the purpose or with the effect of determining, directing, influencing, advising, changing or controlling the management, board of directors, governing instruments or policies or affairs of Purchaser or its Subsidiaries or in connection with or as a participant in any transaction having that purpose or effect.

(c) Seller is not acting in concert, and does not have any agreement or understanding, with any person that is not an affiliate of Seller, and is not otherwise a member of a "group" (as such term is used in Section 13(d)(3) of the Exchange Act), with respect to Purchaser or its securities, other than as may be deemed to arise after the Closing as a result of any transaction by Seller not prohibited by this Agreement.

3.18 3.19 Tax Matters. Seller and each of its Subsidiaries have filed all Tax Returns required to be filed by any of them and have paid (or Seller has paid on their behalf) all Taxes required to be paid as shown on such Tax Returns, and the most recent financial statements contained in the Seller SEC Reports reflect an adequate reserve, in accordance with GAAP, for all Taxes payable by Seller and its Subsidiaries accrued through the date of such financial statements. No deficiencies or other claims for any Taxes have been proposed, asserted or assessed against Seller or any of its Subsidiaries that are not reflected on such financial statements.Employee Benefits. Other than _____, from June 1, 2008 through the date of this Agreement, neither Seller nor any of its Subsidiaries has (i) with respect to senior managing directors and above of Seller or its subsidiaries, entered into or amended any employment, severance, change of control or similar agreement (including any agreement providing for the reimbursement of Taxes under Section 4999 of the Code or other Taxes) or (ii) adopted or amended any material benefit plan or arrangement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER{ TC "ARTICLE VII
REPRESENTATIONS AND WARRANTIES OF PURCHASER" \L "1" \Y}

Except as disclosed in Purchaser's Annual Report on Form 20-F for the year ended December 31, 2007, as filed on March 26, 2008, or Purchaser's Current Reports on Form 6-K filed with the SEC after such 20-F filing was made but prior to the date hereof (but in each case excluding any risk factor disclosures contained under the heading "Risk Factors," any disclosure of risks included in any "forward-looking statements" disclaimer or any other statements that are similarly non-specific or predictive or forward-looking in nature) to the extent that it is reasonably apparent on the face of the disclosed information that such disclosure is of an exception to one or more of the following representations and warranties contained in this Article IV, Purchaser hereby represents and warrants to Seller as follows (solely as of the date hereof except in the case of the representations and warranties set forth in Sections 4.2, 4.3(a), 4.3(b)(i) and 4.7):

4.1 Corporate Organization. Purchaser is a public limited company organized duly formed, validly existing and in good standing under the laws of England. Purchaser has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary. Purchaser is duly registered as a bank holding company under the BHC Act and is a financial holding company pursuant to Section 4(1) of the BHC Act and meets the applicable requirements for qualification as such. A true, complete and correct copy of the Articles and Memorandum of Association of Purchaser, as amended (the "Purchaser Articles") and the by-laws of Purchaser (the "Purchaser Bylaws") { XE "Purchaser Articles" }, each as in effect as of the date of this Agreement, has previously been filed by Purchaser and is publicly available to Seller.

4.2 Capitalization. The authorized capital stock of Purchaser consists of [•] Purchaser Ordinary Shares, of which, as of [____], 2008 (the "Purchaser Capitalization Date") { XE "Purchaser Capitalization Date" }, [•] shares were issued and outstanding, and [____]. All of the issued and outstanding Purchaser Ordinary Shares have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. As of the date of this Agreement, no Voting Debt of Purchaser is issued or outstanding. As of the Purchaser Capitalization Date, except pursuant to this Agreement or the Transaction Documents, Purchaser's dividend reinvestment plan and stock repurchase plans entered into by Purchaser from time to time, Purchaser does not have and is not bound by any outstanding subscriptions, options, warrants, calls, rights, commitments or agreements of any character calling for the purchase or issuance of any Purchaser Ordinary Shares, [shares of Purchaser Preferred Stock], Voting Debt of Purchaser or any other equity securities of Purchaser or any securities representing the right to purchase or otherwise receive any Purchaser Ordinary Shares, shares of Purchaser Preferred Stock, Voting Debt of Purchaser or other equity securities of Purchaser. The Stock Consideration (and the Purchaser Ordinary Shares underlying the Stock Consideration) to be issued pursuant to the Sale will be duly authorized and validly issued and, at the Closing, all such shares will be fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof.

4.3 Authority; No Violation. (a) Purchaser has full corporate power and authority to execute and deliver this Agreement, the Transaction Documents and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby have been duly and validly approved by the Board of Directors of Purchaser, and no other corporate proceedings on the part of Purchaser are necessary to approve this Agreement or the Transaction Documents or to consummate the transactions contemplated hereby or thereby, subject only to approval of the Sale [and the other transactions contemplated by this Agreement], by holders of [a majority of the outstanding] Purchaser Ordinary Shares attending in person or being represented by a proxyholder at a shareholders' meeting of Purchaser duly called and held for such purpose (the "Requisite Purchaser Vote") at which a quorum is present. This Agreement and the Transaction Documents have been duly and validly executed and delivered by Purchaser and (assuming due authorization, execution and delivery by Seller) constitute the

valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with their respective terms (subject to the Bankruptcy and Equity Exception).

(b) Neither the execution and delivery of this Agreement or the Transaction Documents by Purchaser, nor the consummation by Purchaser of the transactions contemplated hereby or thereby, nor compliance with any of the terms or provisions of this Agreement or any Transaction Document, will (i) violate any provision of the Purchaser Articles or Purchaser Bylaws, or (ii) assuming that the consents, approvals and filings referred to in Section 4.4 are duly obtained and/or made, (A) violate any law, judgment, order, injunction or decree applicable to Purchaser, any of its Subsidiaries or any of their respective properties or assets or (B) violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of Purchaser or any of its Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which Purchaser or any of its Subsidiaries is a party or by which any of them or any of their respective properties or assets is bound except, with respect to clause (ii), any such violation, conflict, breach or default that would not reasonably be expected to cause a Material Adverse Effect on Purchaser.

4.4 Consents and Approvals. Except for (i) the Regulatory Approvals, (ii) the filing with the SEC of the Proxy Statement, (iii) any consents, authorizations, approvals, filings or exemptions in connection with compliance with the rules and regulations of any applicable SRO, and the rules of the NYSE, (iv) any notices or filings under the HSR Act, and (v) the [filing] of an offering circular relating to the meeting of Purchaser's stockholders to be held in connection with this Agreement and the Transactions contemplated by this Agreement [and the Transaction Documents], no consents or approvals of or filings or registrations with any Governmental Entity are necessary in connection with the consummation by Purchaser of the Sale and the other transactions contemplated by this Agreement or any Transaction Document. No consents or approvals of or filings or registrations with any Governmental Entity are necessary in connection with the execution and delivery by Purchaser of this Agreement or any Transaction Document.

4.5 Reports; Regulatory Matters.

(a) Purchaser and each of its Subsidiaries have timely filed all reports, registration statements, proxy statements and other materials, together with any amendments required to be made with respect thereto, that they were required to file since January 1, 2005 and prior to the date hereof with the Regulatory Agencies and each other applicable Governmental Entity, and all other reports and statements required to be filed by them since January 1, 2005 and prior to the date of this Agreement, including any report or statement required to be filed pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency or other Governmental Entity, and have paid all fees and assessments due and payable in connection therewith.

(b) An accurate and complete copy of each (i) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC by Purchaser

pursuant to the Securities Act or the Exchange Act since January 1, 2005 and prior to the date of this Agreement (the “Purchaser SEC Reports” XE “Parent SEC Reports”) and (ii) communication mailed by Purchaser to its stockholders since January 1, 2005 and prior to the date of this Agreement is publicly available. No such Purchaser SEC Report or communication, at the time filed, furnished or communicated (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading, except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Purchaser SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. As of the date of this Agreement, no executive officer of Purchaser has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

4.6 Financial Statements.

(a) The financial statements of Purchaser and its Subsidiaries included (or incorporated by reference) in the Purchaser SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of Purchaser and its Subsidiaries; (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders’ equity and consolidated financial position of Purchaser and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount); (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto; and (iv) have been prepared in accordance with the International Financial Reporting Standards (“IFRS” XE “IFRS”) consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto. As of the date hereof, the books and records of Purchaser and its Subsidiaries have been maintained in all material respects in accordance with IFRS and any other applicable legal and accounting requirements and reflect only actual transactions. As of the date hereof, PricewaterhouseCoopers LLP has not resigned or been dismissed as independent public accountants of Purchaser as a result of or in connection with any disagreements with Purchaser on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

(b) The records, systems, controls, data and information of Purchaser and its Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership and direct control of Purchaser or its Subsidiaries or accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership and non-direct control that would not reasonably be expected to have a material adverse effect on Purchaser’s system of internal accounting controls.

4.7 Broker’s Fees. Neither Purchaser nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for

any broker's fees, commissions or finder's fees in connection with the Sale or related transactions contemplated by this Agreement or any Transaction Document, other than as previously disclosed to Seller.

4.8 Compliance with Applicable law. Purchaser and each of its Subsidiaries hold all licenses, franchises, permits and authorizations necessary for the lawful conduct of their respective businesses under and pursuant to each, and have complied with and are not in default in any respect under any, law applicable to Purchaser or any of its Subsidiaries, except for the failure to hold or to have complied with which would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect on Purchaser.

4.9 Approvals. As of the date of this Agreement, Purchaser knows of no reason why all regulatory approvals from any Governmental Entity required for the consummation of the transactions contemplated by this Agreement and the Transaction Documents should not be obtained on a timely basis.

ARTICLE V

COVENANTS RELATING TO CONDUCT OF BUSINESS

5.1 Conduct of Businesses Prior to the Closing. Except as expressly contemplated by or permitted by this Agreement or with the prior written consent of the other party, during the period from the date of this Agreement to the Closing, Seller shall, and shall cause each of its Subsidiaries to, (a) use commercially reasonable efforts to maintain and preserve intact its business organization and advantageous business relationships and retain the services of its key officers and employees and (b) take no action that is intended to or would reasonably be expected to adversely affect or materially delay the ability to obtain any necessary approvals of any Regulatory Agency or other Governmental Entity required for the transactions contemplated hereby or to perform its covenants and agreements under this Agreement or to consummate the transactions contemplated hereby or thereby. In furtherance of the provisions of this Article [], Seller will, and will cause its Subsidiaries to, operate within their existing credit, principal, market and other risk limits and comply with existing risk-related policies and procedures. Purchaser shall have the right to cause the Seller and its Subsidiaries to modify any of the foregoing policies, procedures and operating limits in any and all respects.

5.2 Seller Forbearances. Purchaser shall be entitled to direct the business, operations and management of the Seller and its Subsidiaries in its reasonable discretion (provided that to the extent Purchaser directs Seller or its Subsidiaries to take any action the consequence of which would be the breach of a covenant hereunder, the Seller shall not be deemed to have breached such covenant solely as a result of taking such action). In addition, during the period from the date of this Agreement to the Closing, except as expressly contemplated or permitted by this Agreement, Seller shall not, and shall not permit any of its Subsidiaries to, without the prior written consent of Purchaser:

(a) other than in the ordinary course of business consistent with past practice, incur any indebtedness for borrowed money, issue any debt securities, assume, guarantee, endorse or otherwise become responsible for the obligations of any other individual, corporation or other entity, or make any loan or advance or capital contribution to, or investment in, any person;

(b) (i) adjust, split, combine or reclassify any of its capital stock;

(ii) set any record date or payment date for the payment of any dividends on its capital stock or make, declare or pay any dividend, or make any other distribution on, or directly or indirectly redeem, purchase or otherwise acquire, any shares of its capital stock or any securities or obligations convertible (whether currently convertible or convertible only after the passage of time or the occurrence of certain events) into or exchangeable for any shares of its capital stock or make any adjustment to the conversion rate of any such securities, including the Seller Preferred Stock, (except (A) as required by the express terms of the Seller Preferred Stock; (B) dividends paid by any of the Subsidiaries of Seller to Seller or to any of its wholly owned Subsidiaries; provided, that no Subsidiary that is a part of (or whose assets comprise a part of) the Acquired Business may pay a dividend to any Subsidiary that is not a part of who whose assets do not comprise a part of) the Acquired Business, and (C) the acceptance of shares of Seller Common Stock in payment of the exercise price or withholding Taxes incurred by any employee or director in connection with the exercise of stock options or the vesting of restricted shares of (or settlement of other equity-based awards in respect of) Seller Common Stock granted under a [Seller Stock Plan], in each case in accordance with past practice and the terms of the applicable Seller Stock Plan and related award agreements;

(iii) grant any stock options, stock appreciation rights, restricted shares, restricted stock units, deferred equity units, awards based on the value of Seller's capital stock or other equity-based award with respect to shares of Seller Common Stock under any of the [Seller Stock Plans] or otherwise, or grant any individual, corporation, joint venture or other entity any right to acquire any shares of its capital stock or other securities; or

(iv) issue any additional shares of capital stock or other securities, except pursuant to the exercise of stock options or the settlement of other equity-based awards granted under a [Seller Stock Plan] that are outstanding as of the date of this Agreement;

(c) (i) (i) increase, or commit to increase, in any material respect the compensation (including base salary, wages and annual or long-term incentive opportunities or payments) or fringe benefits of any of its current or former employees, officers, directors or independent contractors, other than general salary increases made in the ordinary course of business consistent with past practice (including without limitation in terms of the amount of such increases, on an aggregate basis in relation to the same period of time in the immediately preceding calendar year, the timing of such increases, and the selection of and eligibility requirements for the applicable recipients thereof), for employees, officers, directors or independent contractors generally or as required by contractual commitments outstanding on the date hereof, (ii) pay any severance, annual incentive payment, bonus or benefit in the form of a welfare benefit or discretionary pension or retirement allowance contribution not required by any existing plan or agreement to any current or former employees, officers, directors or independent contractors, in any case in this clause (ii) other than in the ordinary course of business consistent

with past practice (including without limitation in terms of the amount of such payments on a per person basis, levels of benefits provided, timing of payments, and selection of and eligibility requirements for the applicable recipients) and which does not otherwise materially increase the aggregate cost to Seller of paying all such payments and benefits during the period in which this Section 5.1 applies, from the aggregate cost to Seller of paying all such payments and benefits during the same period of time in the immediately preceding calendar year, or (iii) become a party to, amend, establish or enter into any pension, retirement, profit-sharing, severance, retention or welfare benefit plan, arrangement or agreement, or other incentive or employment plan, arrangement or agreement with or for the benefit of any current or former employee, officer, director or independent contractor or accelerate the time of vesting, payment or funding of any payment or benefit under any such plan, arrangement or agreement.

(d) sell, transfer, pledge, lease, license, mortgage, encumber or otherwise dispose of any of its properties or assets (including pursuant to securitizations) to any individual, corporation or other entity other than an Acquired Entity or cancel, release or assign any material amount of indebtedness to any such person or any claims held by any such person, in each case other than as expressly required by contracts in force at the date of this Agreement, other than any such transactions as are in the ordinary course of business consistent with past practice;

(e) enter into any new line of business or change in any respect its lending, investment, underwriting, risk and asset liability management (including risk limits, position limits and the like) and other operating, securitization and servicing policies, except as required by applicable law, regulation or policies imposed by any Governmental Entity;

(f) transfer ownership, or grant any license or other rights, to any person or entity of or in respect of any material intellectual property of the Seller or its Subsidiaries, other than grants of non-exclusive licenses pursuant to license agreements entered into in the ordinary course of business consistent with past practice;

(g) make any investment in, or any acquisition of, any business entity or division, by purchase or other acquisition of stock or other equity interest (other than in a fiduciary or agent capacity or as expressly required by any written contracts or agreements entered into prior to the date hereof or pursuant to this Agreement), by merger, consolidation, asset purchase or other business combination, or by contributions to capital; or make any property transfers or purchases of any property or assets, in or from any other individual, corporation, joint venture or other entity, other than a wholly owned Subsidiary of Seller, provided, that no Acquired Entity may make any investment in, or any acquisition of, or make any property transfers to or purchases of any properties, assets or liabilities, in or from, any Excluded Entity, provided, further, that to the extent any Acquired Assets or Acquired Liabilities are not held by an Acquired Entity, or any Excluded Assets or Excluded Liabilities are not held by an Excluded Entity, Seller shall use reasonable best efforts to cause such Acquired Assets and Acquired Liabilities to be transferred to, or assumed by, an Acquired Entity as directed by Purchaser, and to cause such Excluded Assets and Excluded Liabilities to be transferred to, or assumed by, an Excluded Entity;

(h) amend its charter or bylaws, or otherwise take any action to exempt any person or entity (other than Purchaser or its affiliates) or any action taken by any person or entity from any [Takeover Statute] or similarly restrictive provisions of its organizational documents or

terminate, amend or waive any provisions of any confidentiality or standstill agreements in place with any third parties, or enter into a plan of consolidation, merger, share exchange or reorganization with any person (other than Purchaser or its affiliates), or a letter of intent or agreement in principle with respect thereto;

(i) conduct its operations or take actions related to trading or credit extension in any manner other than in the ordinary course consistent with past practice and in consultation with Purchaser;

(j) change in any material respect the policies, practices and procedures governing operations of Seller and its Subsidiaries;

(k) (i) amend or otherwise modify, except in the ordinary course of business, or knowingly violate in any material respect the terms of, any Seller Contract, or (ii) except as may be required by applicable law, create or renew any agreement or contract or other binding obligation of Seller or its Subsidiaries containing (A) any material restriction on the ability of Seller or its Subsidiaries to conduct its business as it is presently being conducted or (B) any material restriction on the ability of Seller or its Subsidiaries to engage in any type of activity or business;

(l) commence or settle any claim, action or proceeding, other than settlements resulting solely in the payment of monetary damages in amounts not in excess of \$500,000 in the aggregate;

(m) take any action or willfully fail to take any action which action or failure is intended or may reasonably be expected to result in any of the conditions to the Sale set forth in Article VII not being satisfied;

(n) implement or adopt any change in its Tax accounting or financial accounting principles, practices or methods, other than as may be required by applicable law, GAAP or regulatory guidelines;

(o) file or amend any Tax Return other than in the ordinary course of business, make or change any material Tax election, or settle or compromise any material Tax liability;

(p) convene any annual or special meeting of stockholders (other than the Company Stockholder Meeting); or

(q) agree to take, make any commitment to take, or adopt any resolutions of its board of directors in support of, any of the actions prohibited by this Section 5.2.

For purposes of Section 5.2(k), "Seller Contract{ XE "Seller Contract" }" means any contract, arrangement, commitment or understanding (whether written or oral) to which Seller or any of its Subsidiaries is a party or by which Seller, any of its Subsidiaries is bound (i) with respect to the employment of any directors, executive officers, employees or consultants, other than in the ordinary course of business consistent with past practice, (ii) which, upon execution of this Agreement or consummation or stockholder approval of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional acts

or events) result in any payment or benefits (whether of severance pay or otherwise) becoming due from Seller, Purchaser, or any of their respective Subsidiaries to any executive officer or employee of Seller or any of its Subsidiaries, (iii) that is a “material contract” (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC) to be performed after the date of this Agreement that has not been filed or incorporated by reference in the Seller SEC Reports filed prior to the date hereof, (iv) that materially restricts the conduct of any line of business by Seller or any of its Subsidiaries or, to the knowledge of Seller, upon consummation of the Sale will materially restrict the ability of Purchaser or any of its Subsidiaries to engage in any line of business, (v) that obligates Seller or any of its Subsidiaries to conduct business on an exclusive or preferential basis with any third party or upon consummation of the Sale will obligate Purchaser or any of its Subsidiaries to conduct business with any third party on an exclusive or preferential basis, (vi) with or to a labor union or guild (including any collective bargaining agreement) or (vii) including any stock ‘option plan, stock appreciation rights plan, restricted stock plan or stock purchase plan, any of the benefits of which will be increased, or the vesting of the benefits of which will be accelerated, by the execution of this Agreement, the occurrence of any stockholder approval or the consummation of any of the transactions contemplated by this Agreement, or the value of any of the benefits of which will be calculated on the basis of or affected by any of the transactions contemplated by this Agreement.

ARTICLE VI OTHER COVENANTS OF SELLER AND PURCHASER

6.1 Regulatory Matters. (a) Seller shall, as promptly as practicable after the date hereof, prepare and file with the SEC (subject to the prior review and approval of Purchaser, which shall not be unreasonably withheld), the Proxy Statement in preliminary form. Each of Seller and Purchaser shall obtain and furnish the information concerning itself and its affiliates required to be included in the Proxy Statement. Each of Seller and Purchaser shall use its reasonable best efforts to respond as promptly as reasonably practicable to any comments received from the SEC or its staff with respect to the Proxy Statement, and Seller shall cause the definitive Proxy Statement to be mailed to Seller’s stockholders at the earliest reasonably practicable date.

(b) Subject to the other provisions of this Agreement, the parties hereto shall cooperate with each other and use reasonable best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, to obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties and Governmental Entities which are necessary or advisable to consummate the transactions contemplated by this Agreement (including the Sale) and to comply with the terms and conditions of all such permits, consents, approvals and authorizations of all such third parties and Governmental Entities. Purchaser shall file all appropriate applications with the Federal Reserve and all other applicable Governmental Entities necessary to obtain approval for the Sale and the other transactions contemplated hereby within 20 days of the date hereof. Seller and Purchaser shall have the right to review in advance, and, to the extent practicable, each will consult with the other on, in each case subject to applicable laws relating to the confidentiality of information, all filings made, or written materials submitted to, any third party or any Governmental Entity in connection with the transactions contemplated by this Agreement. In exercising the foregoing right, each of the parties shall act reasonably and as promptly as practicable. The parties shall

consult with each other with respect to the obtaining of all permits, consents, approvals and authorizations of all third parties and Governmental Entities necessary or advisable to consummate the transactions contemplated by this Agreement, and each party will keep the other apprised of the status of matters relating to the completion of the transactions contemplated by this Agreement. Seller and Purchaser shall provide the other party with the opportunity to participate in any meeting with any Governmental Entity in respect of any filings, investigation or other inquiry in connection with the transactions contemplated hereby.

(c) Purchaser and Seller shall, upon request, furnish each other with all information concerning themselves, their Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Proxy Statement or any other statement, filing, notice or application made by or on behalf of Purchaser, Seller or any of their respective Subsidiaries to any Governmental Entity in connection with the Sale and the other transactions contemplated by this Agreement.

(d) Purchaser and Seller shall promptly furnish the other with copies of all written communications received by it or any of its Subsidiaries from, or delivered by any of the foregoing to, any Governmental Entity in respect of the transactions contemplated by this Agreement.

(e) Each of Purchaser and Seller shall promptly advise the other upon receiving any communication from any Governmental Entity the consent or approval of which is required for consummation of the transactions contemplated by this Agreement that causes such party to believe that there is a reasonable likelihood that any Regulatory Approval will not be obtained or that the receipt of any such approval may be materially delayed.

6.2 Access to Information. (a) Upon reasonable notice and subject to applicable laws relating to the confidentiality of information, Seller shall, and shall cause each of its Subsidiaries to, afford to the officers, employees, accountants, counsel, advisors, agents and other representatives of Purchaser, reasonable access, during normal business hours during the period prior to the Closing, to all its properties, books, contracts, commitments and records, and, during such period, Seller shall, and shall cause its Subsidiaries to, make available to Purchaser (i) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of federal securities laws or federal or state banking or insurance laws (other than reports or documents that such party is not permitted to disclose under applicable law) and (ii) all other information concerning its business, properties and personnel as the Purchaser may reasonably request. Neither Seller nor any of its Subsidiaries, shall be required to provide access to or to disclose information where such access or disclosure would jeopardize the attorney-client privilege of Purchaser or its Subsidiaries or contravene any law, rule, regulation, order, judgment, decree, fiduciary duty or binding agreement entered into prior to the date of this Agreement. The parties shall make appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

(b) All information and materials provided pursuant to this Agreement in respect of Seller shall be subject to the provisions of the letter agreement entered into between the parties as of September 11, 2008 (the "Confidentiality Agreement{ XE "Confidentiality Agreement" }").

(c) No investigation by a party hereto or its representatives shall affect the representations and warranties of the other party set forth in this Agreement.

6.3 Employee Matters. (a) Effective as of the Closing Date, Purchaser shall, or shall cause one of Purchaser's Subsidiaries to, continue to employ (where employment continues or is transferred to Purchaser or a Subsidiary of Purchaser automatically by operation of Law), or offer employment to (where employment does not continue or transfer automatically by operation of Law), each Offeree. For purposes of this Agreement, the term "Offeree" means each current employee (whether or not active) of Seller and its subsidiaries at the Closing, other than employees employed substantially full-time in connection with the Excluded Assets ("Excluded Employees"). Each Offeree who accepts Purchaser's or one of its Subsidiaries' offer of employment, together with each person whose employment transfers to Purchaser or a Subsidiary of Purchaser automatically by operation of law, shall be referred to herein as a "Transferred Employee." An Offeree who performs work at his then applicable place of employment on the first Business Day immediately following the Closing shall be deemed for all purposes of this Agreement to have accepted Purchaser's or one of its Subsidiaries' offer of employment and shall be deemed to be a Transferred Employee for all purposes of this Agreement.

(b) Seller and Purchaser shall cooperate and take all reasonably necessary or appropriate actions with respect to any requirement under applicable Law or any applicable agreement to notify the collective bargaining or other labor representatives of the Offerees of this Agreement and/or the transactions contemplated hereby, including any applicable works council, and to provide such information and engage in such notifications, discussions or negotiations with such representatives as may be required by applicable Law or any applicable agreement.

(c) Effective as of the Closing, Purchaser shall assume sponsorship of the [Lehman DB Pension Plan] (the "Lehman DB Plan") and the [Lehman 401(k) Plan] (the "Lehman 401(k) Plan" and, together with the Lehman DB Plan, the "Qualified Plans") and Seller shall cooperate with Purchaser to effectuate the transfer to Purchaser or its designees of all rights and authorities of the sponsors thereunder. Excluded Employees shall cease to accrue benefits or actively participate in the Qualified Plans following the Closing.

(d) Purchaser shall, or shall cause its Subsidiaries, to (i) give Transferred Employees full credit for purposes of eligibility, vesting and benefit accruals under any employee benefit plans in which they become eligible to participate or arrangements maintained by Purchaser or any of its Subsidiaries (collectively, the "Purchaser Plans") for such Transferred Employees' service with Seller or its predecessors to the same extent recognized by Seller, and (ii) waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Transferred Employees under any Purchaser Plan that is a welfare benefit plan that such employees may be eligible to participate in after the Closing to the extent any such limitations were waived or satisfied by the applicable Transferred Employee under the applicable plan of Seller or any of its subsidiaries in which such Transferred Employee participated immediately prior to the Closing, and (iii) provide credit under any such welfare plan for any co-payments, deductibles and out-of-pocket expenditures for the remainder of the coverage period during which any transfer of coverage occurs; provided, however, that no such service shall be recognized to the extent such recognition would provide

past service credit under a defined benefit pension plan or similar arrangement or would result in the duplication of benefits.

(e) Without limiting any additional rights that each Transferred Employee may have, Purchaser shall, or shall cause its Subsidiaries, for a period commencing at the Closing and ending 12 months thereafter, to provide to each Transferred Employee whose employment is terminated during such period severance payments and benefits at levels that are no less favorable than such levels as the Transferred Employee would have been entitled to receive pursuant to the provisions of existing severance plans or agreements covering such Transferred Employee as in effect immediately prior to the Closing.

(f) The provisions of this Section 6.3 are for the sole benefit of the parties to this Agreement and nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any Person (including for the avoidance of doubt any Transferred Employees, present or former employees or directors, consultants or independent contractors of Seller or any of its subsidiaries or Purchaser or any of its Subsidiaries), other than the parties hereto and their respective permitted successors and assigns, any legal or equitable or other rights or remedies (with respect to the matters provided for in this Section 6.3) under or by reason of any provision of this Agreement. Nothing contained in this Agreement shall constitute or be deemed to be an amendment to any benefit plan, program, agreement or arrangement maintained or sponsored by Seller or any of its subsidiaries or of any Purchaser Plan, or affect the right of Purchaser to amend, modify, affect, or terminate any benefit plan, program, agreement or arrangement maintained or sponsored by Seller or any of its subsidiaries or any Purchaser Plan. Nothing contained in this Section 6.3 or elsewhere in the Agreement shall be construed to prevent, from and after the Closing, the termination of employment of any individual Transferred Employee or any change in the employee benefits available to any Transferred Employee .

(g)

6.4 Additional Agreements. In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement (including any merger between a Subsidiary of Purchaser, on the one hand, and a Subsidiary of Seller, on the other) or to vest the Surviving Seller with full title to all properties, assets, rights, approvals, immunities and franchises of either party to the Sale, the proper officers and directors of each party and their respective Subsidiaries shall, at Purchaser's sole expense, take all such necessary action as may be reasonably requested by Purchaser.

6.5 Seller Stockholders Meeting. (a) Seller shall duly take all lawful action to call, give notice of, convene and hold a meeting of its stockholders as promptly as practicable after the date hereof (the "Seller Stockholders Meeting{ XE "Green Stockholders Meeting" }") for the purpose of obtaining the required vote of the holders of Seller Common Stock with respect to the transactions contemplated by this Agreement and, subject to Section 6.5(b), shall use reasonable best efforts to obtain from its stockholders the requisite vote authorizing and approving the Sale. The Board of Directors of Seller shall recommend authorization and approval of the Sale by the stockholders of Seller and shall not (x) withdraw, modify or qualify in any manner adverse to

Purchaser such recommendation or (y) take any other action or make any other public statement in connection with the Seller Stockholders Meeting inconsistent with such recommendation (collectively, a “Change in Seller Recommendation” XE “Change in Green Recommendation”), except, in each case, as and to the extent otherwise expressly permitted by Section 6.5(b). Notwithstanding any Change in Seller Recommendation, this Agreement shall be submitted to the stockholders of Seller at the Seller Stockholders Meeting for the purpose of voting on this Agreement and nothing contained herein shall be deemed to relieve Seller of such obligation.

(b) Notwithstanding the foregoing, prior to the authorization and approval of the Sale by the requisite vote of the stockholders of Seller, Seller and its Board of Directors shall be permitted to effect a Change in Seller Recommendation if and only if each of the following conditions is satisfied:

(i) Seller has received an Alternative Proposal that constitutes a Superior Proposal and such Superior Proposal has not been withdrawn;

(ii) Seller shall not have breached in any material respect its obligations under Section 6.5(a) or 6.7;

(iii) Seller’s Board of Directors reasonably determines in good faith (after consultation with its outside counsel), that in light of a Superior Proposal, the failure to effect such Change of Recommendation would cause it to violate its fiduciary duties to its stockholders under applicable law; and

(iv) (A) Seller has notified Purchaser in writing, at least five business days in advance, of its intention to effect a Change in Seller Recommendation (the “Notice Period” XE “Notice Period”), specifying the reasons therefor (and, if Seller’s Board of Directors intends to effect a Change in Seller Recommendation because of a Superior Proposal, specifying the material terms and conditions of any such Superior Proposal (including the identity of the party making such Superior Proposal) and furnishing to Purchaser a copy of the relevant proposed transaction agreements with the party making such Superior Proposal and other material documents) and (B) during the Notice Period, and in any event prior to effecting such a Change in Seller Recommendation, Seller has negotiated, and has caused its financial and legal advisors to negotiate, with Purchaser in good faith (to the extent Purchaser desires to negotiate) to make such adjustments in the terms and conditions of this Agreement so that such Acquisition Proposal ceases to constitute a Superior Proposal or such Change in Seller Recommendation otherwise ceases to be necessary. In the event of any material revisions to the terms of the Superior Proposal after the start of the Notice Period, Seller shall be required to deliver a new written notice to Purchaser and to comply with the requirements of this Section 6.5(b) with respect to such new written notice, and the Notice Period shall be deemed to have re-commenced on the date of such new notice (provided that upon such re-commencement, the Notice Period shall be deemed to be two business days).

As used in this Agreement, “Acquisition Proposal” XE “Acquisition Proposal” means any offer, proposal, indication of interest or inquiry (made by any person other than Purchaser or its affiliates) for a merger, consolidation, sale of securities or assets or other business combination or similar transaction involving Seller or any of its Subsidiaries or otherwise involving 15% or

more of the fair market value of (x) the business, assets, net income or net revenues of Seller and its Subsidiaries, taken as a whole or (y) the Acquired Assets, taken as a whole, or any proposal, offer, indication of interest or inquiry to acquire, directly or indirectly, in any manner (including by tender or exchange offer, open market purchase, issuance by Seller or otherwise) more than 15% of the voting power in (or more than 15% of the voting power of any new class or new series of preferred stock that would be entitled to a class or series vote with respect to any of the transactions contemplated by this Agreement of), or more than 15% of the fair market value of (x) the business, assets, net income or net revenues of Seller and its Subsidiaries, taken as a whole, or (y) the Acquired Assets, taken as a whole, other than the transactions contemplated by this Agreement; and “Superior Proposal” means any *bona fide* written Acquisition Proposal made by a [Qualifying Party] (A) to acquire, directly or indirectly, for consideration consisting of cash and/or securities 100% of the outstanding shares of Seller Common Stock or 100% of the assets, net revenues or net income of the Seller and its Subsidiaries, taken as a whole and (B) which is otherwise on terms which the Board of Directors of the Seller determines in its reasonable good faith judgment (after consultation with its financial advisor and outside legal counsel), taking into account, among other things, all legal, financial, regulatory and other aspects of the proposal, that the proposal (i) if consummated would result in a transaction that is more favorable, from a financial point of view, to the Seller’s stockholders than the Sale and the other transactions contemplated hereby and by the Transaction Documents and (ii) is reasonably capable of being completed, including to the extent required, financing which is then committed or which, in the good faith judgment of the Board of Directors of Seller, is reasonably capable of being obtained by such Qualifying Person [“Qualifying Party” means a third party that (1) enters into one or more guaranties of or credit facilities with respect to the obligations of Seller and its Subsidiaries that are at least equivalent to (and no less comprehensive than) the Purchaser Loan Agreement (which guaranties shall take effect simultaneously with the termination of, and shall supersede, the Purchaser Loan Agreement), (2) has capital, liquidity and financial strength sufficient that such guaranties will enable Seller and its Subsidiaries to conduct business in the ordinary course as then conducted, and (3) enters into financing and support arrangements with the Federal Reserve as are necessary to enable Seller and its Subsidiaries to conduct business in the ordinary course as then conducted.]

(c) Nothing contained in this Agreement shall prevent Seller or its Board of Directors from complying with Rule 14d-9 and Rule 14e-2(a) under the Exchange Act with respect to an Acquisition Proposal.

6.6 Purchaser Shareholders Meeting. (a) Purchaser will take, in accordance with applicable law and the Purchaser Articles and the Purchaser Bylaws, all actions necessary to convene a meeting of its shareholders at which a vote shall be taken (the “Purchaser Shareholders Meeting”) as promptly as practicable after the execution of this Agreement to consider and vote upon the Sale and the other transactions contemplated by this Agreement and the Transaction Documents. The board of directors of Purchaser shall recommend such approval and shall take all lawful action to solicit such approval of the Sale and the other transactions contemplated by this Agreement and the Transaction Documents.

(b) Purchaser agrees that none of the information supplied by it for inclusion or incorporation by reference in any written material to be furnished to shareholders of Purchaser in

connection with the Purchaser Shareholders' Meeting (the "Purchaser Shareholder Meeting Materials") will, at the date of being put at the disposal of 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 therein, in light of the circumstances under which they were made, not misleading. Notwithstanding the foregoing, Purchaser makes no representation or warranty with respect to the information supplied by or on behalf of Seller or any of its Subsidiaries or any of its or their Representatives that is contained or incorporated by reference in the Purchaser Shareholder Meeting Materials. Seller agrees that none of the information supplied by it for inclusion or incorporation by reference in the Purchaser Shareholder Meeting Materials will, at the date of being put at the disposal of shareholders or investors, 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 therein, in light of the circumstances under which they were made, not misleading.

(c) Seller and Purchaser each shall, upon request by the other, furnish the other with all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Purchaser Shareholders' Meeting Materials.

6.7 No Solicitation. (a) From the date of this Agreement until the Closing, or, if earlier, the date on which this Agreement is terminated in accordance with Section 9.1, Seller shall not, and shall cause its Subsidiaries and its and its Subsidiaries' respective officers, directors, employees, agents, representatives and affiliates (collectively, "Representatives{ XE "Representatives" }") not to, directly or indirectly (i) initiate, solicit, encourage or knowingly facilitate (including by way of providing information) any inquiries or proposals with respect to any Acquisition Proposal or potential Acquisition Proposal, (ii) engage in any negotiations concerning, or provide any nonpublic information to, or have any discussions with, any person relating to, any Acquisition Proposal or potential Acquisition Proposal, (iii) waive, terminate, modify or fail to enforce any provision of any contractual "standstill" or similar obligation of any person other than Purchaser or its affiliates with respect to an Acquisition Proposal or (iv) enter into any letter of intent, agreement in principle, merger agreement, share purchase agreement, asset purchase or share exchange agreement, option agreement or other similar agreement relating to an Acquisition Proposal; provided that, in the event Seller receives an unsolicited *bona fide* Acquisition Proposal prior to the Seller Stockholders Meeting and Seller's Board of Directors concludes in good faith (A) (after consultation with its outside financial and legal advisors) that such Acquisition Proposal constitutes or is reasonably likely to result in a Superior Proposal and (B) (after consultation with its outside legal advisors) that failure to do so would cause it to violate its fiduciary duties to the Company stockholders under applicable law, then, prior to the authorization and approval of the Sale by the Seller stockholders at the Seller Stockholders Meeting, Seller may, and may permit its Subsidiaries and its and their Representatives to, take any action described in clause (ii) above; provided further that (x) prior to providing any nonpublic information permitted to be provided pursuant to the foregoing proviso, Seller shall have entered into a confidentiality agreement with such third party on customary terms and which in any event is no less favorable to the Company than the Confidentiality Agreement, and (y) concurrently with providing such information, Seller shall also furnish to Purchaser a copy of any confidential data or information that it is furnishing to any third party pursuant to this Section 6.7 to the extent not previously furnished to Purchaser.

Seller will immediately cease and cause to be terminated any activities, discussions or negotiations it or its Subsidiaries or any of their respective Representatives may have conducted before the date of this Agreement with any persons other than Purchaser with respect to any Acquisition Proposal. Seller will use its (and will cause its Subsidiaries and their Representatives to use their) reasonable best efforts to enforce any confidentiality, standstill or similar agreement relating to an Acquisition Proposal (and will immediately take all steps necessary to terminate any approval that may have been heretofore given under any such agreement authorizing any person to make an Acquisition Proposal), and shall use reasonable best efforts to cause all persons other than Purchaser that have been furnished confidential information regarding Seller in connection with the solicitation of or discussions regarding an Acquisition Proposal within the 12 months prior to the date hereof promptly to return or destroy such information.

(b) Seller will promptly (within 24 hours) advise Purchaser orally and in writing following receipt of (1) any Acquisition Proposal or indication by any person that it is considering making an Acquisition Proposal, (2) any request for nonpublic information relating to Seller or its Subsidiaries or access to the properties, books or records of Seller of any of its Subsidiaries, other than requests in the ordinary course of business and unrelated to an Acquisition Proposal, or (3) any inquiry or request for discussions or negotiations relating to an Acquisition Proposal. Seller will promptly (within 24 hours) provide Purchaser with a copy (if in writing) and summary of the material terms of any such Acquisition Proposal or request (including the identity of the person making or considering such Acquisition Proposal or making such request) and will keep Purchaser apprised of any material developments, discussions and negotiations on a reasonably current basis (and in any event within 24 hours). Without limiting the foregoing, Seller shall notify Purchaser orally and in writing at least 24 hours in advance before it begins providing information or engaging in negotiations or negotiations concerning an Acquisition Proposal pursuant to this Section 6.7.

(c) Neither Seller nor the Board of Directors of Seller shall approve or take any action to render inapplicable, to any Acquisition Proposal, Section 203 of the DGCL or any other Takeover Statute.

(d) 6.8 Transaction Documents. (a) Concurrently with the execution of this Agreement, Purchaser has entered into the loan agreement attached hereto as Exhibit [] (the "Purchaser Loan Agreement") and shall comply with the terms of such Purchaser Loan Agreement, subject to the conditions set forth therein. Concurrently with the execution of this Agreement, Purchaser and Seller have entered into the Share Exchange Agreement attached hereto as Exhibit [] (the "Share Exchange Agreement") and shall comply with the terms of such Share Exchange Agreement, subject to the conditions set forth therein.

(b) As promptly as practicable after the date hereof, Purchaser and Seller shall negotiate in good faith with respect to and enter into a transition services agreement (which shall be effective upon Closing), on customary terms to be agreed between Purchaser and Seller, with respect to transitional services to be provided by Purchaser to Seller after the Closing (the "Transition Services Agreement," and together with the [Purchaser Loan Agreement] and the Share Exchange Agreement, the "Transaction Documents"). [add closing condition]

6.9 Restructuring Efforts. If Seller or Purchaser shall have failed to obtain the requisite vote or votes of its stockholders for the consummation of the transactions contemplated by this Agreement at a duly held meeting of its stockholders or at any adjournment or postponement thereof, then, unless this Agreement shall have been terminated pursuant to its terms, each of the parties shall in good faith use its reasonable best efforts to negotiate a restructuring of the transactions provided for herein (it being understood that neither party shall have any obligation to alter or change (i) the amount or kind of the consideration to be received by Seller in the Sale, (ii) the terms of the Purchaser Loan Agreement or the Share Exchange Agreement or (iii) the tax treatment of the Sale, in a manner adverse to such party or its stockholders) and to resubmit the transaction to Seller's and Purchaser' stockholders for approval, with the timing of such resubmission to be determined at the reasonable request of Purchaser.

6.10 Asset Option. In consideration of Purchaser's entering into this Agreement and the Purchaser Loan Agreement, subject to the terms and conditions set forth in this Section 6.10 Seller hereby grants, on behalf of itself and its affiliates, to Purchaser, the irrevocable right and option to acquire all of Seller's and its affiliates' rights, title and interest (free and clear of all Liens) in and to 51% of Seller's entities constituting U.S. broker-dealer and investment banking businesses⁴ (the "Covered Assets{ XE "Covered Assets" }") for an amount in cash equal to the Option Consideration (the "Asset Option{ XE "Asset Option" }"). As used herein, "Option Consideration{ XE "Option Consideration" }" means [*to come*].⁵ The Asset Option shall be exercisable only if (i) Purchaser pursuant to Section 9.1(g) or 9.1(h), or (ii) (A)(x) by Purchaser pursuant to Section 9.1(d) or 9.1(e)(i) (y) by Seller pursuant to Section 9.1(f)(ii) or (x) by either Purchaser or Seller pursuant to Section 9.1(c), and (B) prior to either such termination an Acquisition Proposal shall have been publicly announced or otherwise communicated or made known to Seller (or any person shall have publicly announced, communicated or made known an intention to make an Acquisition Proposal), and shall not have been irrevocably withdrawn; in any such case the Asset Option shall be exercisable at Purchaser's discretion from the time of such termination until the date that is twelve months following the date of such termination. If the Asset Option is exercised, Seller shall promptly take (and cause its applicable affiliates to take) all necessary actions to vest in Purchaser or its designee or designees, subject to receipt of the Option Consideration, all right and title, free and clear of all Liens, to the Covered Assets, including as applicable stock certificates, real property transfer documents and any other documents reasonably requested by Purchaser. Seller further agrees to cooperate (and to cause its applicable affiliates to cooperate) with Purchaser, and to cause its Subsidiaries to cooperate with Purchaser, in taking all actions necessary to facilitate any exercise or consummation of the Asset Option, including with respect to obtaining any necessary government, regulatory or third-party approvals. Seller shall, and shall cause its affiliates to, take all actions and enter into all agreements directed by Purchaser that are necessary to consummate the foregoing transactions and to convey to Purchaser or its designee or designees good, marketable and insurable title to the Covered Assets (free and clear of all Liens) as directed by Purchaser. Seller and its affiliates shall exercise their best efforts to obtain any consents or waivers required to effectuate the foregoing transactions. All transfer taxes and other costs of consummating the foregoing

⁴ NTD: Description of businesses to be confirmed

⁵ NTD: Price/formula for determining the Option Consideration to be determined.

transactions shall be borne by Seller. The closing of Purchaser's or its designee's or designees' acquisition of the Covered Assets shall occur within 30 days of the exercise of the Asset Option or within such other period as shall be directed by Purchaser.

6.11

6.12 Securities Laws; Legends{ TC "Section 4.04. Securities Laws; Legends" \f C \l "2" }. (a) Seller acknowledges and agrees that the securities constituting the Stock Consideration have not been registered under the Securities Act or the securities laws of any state and that they may be sold or otherwise disposed of at any time prior to the date that is six months after the Closing, and thereafter, only in one or more transactions registered under the Securities Act and, where applicable, such state laws, or as to which an exemption from the registration requirements of the Securities Act and, where applicable, such state laws, is available. Seller acknowledges that Seller has no right to require Purchaser to register the securities constituting the Stock Consideration. Seller further acknowledges and agrees that any certificate for the securities constituting the Stock Consideration shall bear a legend substantially as set forth in paragraph (b) of this Section 6.12 (and any shares evidenced in book entry form shall contain appropriate comparable notation and reflect related stop transfer instructions).

(b) Any certificates for the securities constituting the Stock Consideration shall bear legends in substantially the following form:

The securities represented by this Certificate have not been registered under the Securities Act of 1933, as amended, and may not be transferred, sold or otherwise disposed of except pursuant to a registration statement in effect under such Act and applicable state securities laws or pursuant to an exemption from registration under such Act or such laws.

(c) When issued pursuant hereto, the certificates evidencing the securities constituting the Stock Consideration shall also bear any legend required by any applicable state blue sky law.

(d) Any holder of securities constituting the Stock Consideration may request Purchaser to remove any or all of the legends described in this Section 6.12 from the certificates evidencing such securities by submitting to Purchaser such certificates, together with an opinion of counsel reasonably satisfactory to Purchaser, to the effect that such legend or legends are no longer required under the Securities Act or applicable state laws, as the case may be.

6.13 Risk of Loss. Until the Closing, any loss of or damage to the Acquired Assets from fire, casualty or any other occurrence shall be the sole responsibility of Seller. At the Closing, title to the Acquired Assets shall be transferred to Purchaser (and/or the designees of Purchaser), and Purchaser (and/or such designees) shall thereafter bear all risk of loss associated with the Acquired Assets and be solely responsible for procuring adequate insurance to protect the Acquired Assets, except as otherwise set forth herein.

6.14 Intercompany Arrangements and Accounts. Except as contemplated by this Agreement and the Transitional Services Agreement, no later than the Closing Date, Seller shall, and shall cause its affiliates (including the Acquired Entities) to, (i) cancel and terminate all

Contracts between Seller or its affiliates, on the one hand, and the Transferred Entities, on the other hand as specified by Purchaser and (ii) settle or extinguish those intercompany receivables and payables between Seller or its affiliates (other than the Acquired Entities), on the one hand, and the Acquired Entities, on the other hand, that were incurred on or prior to the Closing, in each case as specified by Purchaser.

6.15 Resignations. On the Closing Date, except as specified by Purchaser, Sellers shall cause to be delivered to Purchaser duly signed resignations, effective immediately after the Closing, of all directors of the Acquired Entities or shall take such other action as is necessary to cause such persons to no longer be directors of any relevant Acquired Entity immediately after the Closing.

6.16 Use of Names. Seller[s] shall promptly, and in any event within ninety (90) days after the Closing Date, revise sales and product literature, websites, signs, packaging, labeling and similar materials to delete all references to the Transferred Names. "Transferred Names" means "[to be provided]", any variations and derivatives thereof and any other logos or trademarks included in the Acquired Assets. Immediately following the Closing, to the extent necessary, Seller shall and shall cause each of its affiliates to change its corporate and business names to a name not including or, in the reasonable judgment of Purchaser, not confusingly similar to any of the Transferred Names. Immediately following the Closing, to the extent necessary, Seller shall and shall cause each of its affiliates to amend or terminate any certificate of assumed name or d/b/a filing by such affiliates so as to eliminate their right to use any of the Transferred Names or any name that, in the reasonable judgment of Purchaser, is confusingly similar to any of the Transferred Names.

6.17 ["Street" Facility]. Seller shall arrange the ["Street" financing] on the terms and conditions described in the [Commitment Letter], including (i) negotiating definitive documents with respect thereto on terms and conditions contained therein; (ii) satisfying on a timely basis all conditions allocable to Seller in such definitive documents that are within its control and (iii) consummating such ["Street" Financing] at Closing. Seller shall give Purchaser prompt notice upon becoming aware of any breach by any party of the [Commitment Letter] or of any termination of the [Commitment Letter]. Seller shall provide notice to Purchase promptly upon receiving the ["Street" Financing]. [*to come – covenant that "Street" facility to support assets remaining with Seller be documented, in effect and available for drawdown at or prior to Closing*]

6.18 Cooperation. (a) Purchaser and Seller shall, prior to, at and following the Closing, cooperate with each other, and shall cause their affiliates and Representatives to cooperate with each other to ensure the orderly transition of the Acquired Assets and Acquired Liabilities from Seller to Purchaser and to minimize any disruption to the respective businesses of Seller, the Acquired Entities and Purchaser that might result from the Sale and the other transactions contemplated hereby.

(b) From time to time, as and when requested by either party hereto, the other party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions, as such other party may

reasonably deem necessary or desirable to consummate Sale and the other transactions contemplated by this Agreement.

(c) Without limiting the generality of the foregoing, Purchaser and Seller shall cooperate using their reasonable best efforts to transfer, obtain, or to cause to be transferred or obtained, prior to the Closing or as soon as practicable thereafter, any permit, license or other authorization of a Government Entity necessary for Purchaser to own or operate the Acquired Entities or the Acquired Assets. During the period commencing on the date hereof and continuing following the Closing, (i) each of Seller and Purchaser shall provide or cause to be provided to the other party all reasonable assistance as is reasonably requested in connection with securing (and/or terminating, if required by applicable law any such permit, license or other authorization and (ii) if any permit, license or other authorizations are not secured prior to the Closing, Seller, and Purchaser shall use reasonable best efforts (i) to cooperate to obtain any such permit, license or other authorization and (ii) until such time as such permit, license or other authorization is obtained, cooperate and implement in good faith, in any lawful and reasonable arrangement reasonably proposed by Purchaser under which Purchaser or its affiliates shall obtain the benefit of permits, licenses or other authorizations held by Seller or its affiliates in connection with the ownership or operation of the Acquired Entities or the Acquired Assets following the Closing; provided that such assistance and cooperation shall not include any obligation to expend money to any third party or Governmental Entity from whom such permit, license or other authorizations are requested under this Section 6.17, or to commence, defend or participate in any litigation or offer or grant any accommodation (financial or otherwise) to any third party. Notwithstanding anything in the Agreement to the contrary, unless and until such permit, license or other authorization is transferred, such permit, license or other authorization shall not constitute an Acquired Asset and any associated liability shall not constitute an Acquired Liability.

6.19 Seller Information. The information relating to Seller and its Subsidiaries that is provided by Seller or its representatives for inclusion in the Proxy Statement, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement or the Transaction Documents, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The portions of the Proxy Statement relating to Seller and its Subsidiaries and other portions within the reasonable control of Seller and its Subsidiaries will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder.

6.20 Purchaser Information. The information relating to Purchaser and its Subsidiaries that is provided by Purchaser or its representatives for inclusion in the Proxy Statement, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement and the Transaction Documents, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The portions of the Proxy Statement relating to Purchaser and its Subsidiaries and other portions within the reasonable control of Purchaser and its

Subsidiaries will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder.

ARTICLE VII CONDITIONS PRECEDENT

7.1 Conditions to Each Party's Obligation To Effect the Transactions. The respective obligations of the parties to effect the Sale shall be subject to the satisfaction at or prior to the Closing of the following conditions:

(a) Stockholder Approvals. (i) The Sale, on substantially the terms and conditions set forth in this Agreement, shall have been approved and authorized by the requisite affirmative vote of the holders of Seller Common Stock entitled to vote thereon, and (ii) the holders of Purchaser Ordinary Shares constituting the Requisite Purchaser Vote, at the Purchaser Shareholders Meeting, shall have adopted a resolution approving the Sale.

(b) No Injunctions or Restraints; Illegality. No statute, rule, regulation, order, injunction, law or decree shall have been issued, enacted, entered, promulgated or enforced by any Governmental Entity of competent jurisdiction or other law preventing, prohibiting or making illegal the consummation of the Sale.

7.2 Conditions to Obligations of Purchaser. The obligation of Purchaser to effect the Sale is also subject to the satisfaction, or waiver by Purchaser, at or prior to the Closing, of the following conditions:

(a) Representations and Warranties. The representations and warranties of Seller set forth in (i) [Sections 3.2(a), 3.2(c), 3.3(a), 3.3(b)(i), 3.7, 3.10, 3.13, 3.15 and 3.16] shall be true and correct in all material respects, in each case as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except that representations and warranties that by their terms speak specifically as of the date of this Agreement or another date shall be true and correct as of such date); and Purchaser shall have received a certificate signed on behalf of Seller by the Chief Executive Officer or the Chief Financial Officer of Seller to the foregoing effect.

(b) Performance of Obligations of Seller. Seller shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing; and Purchaser shall have received a certificate signed on behalf of Seller by the Chief Executive Officer or the Chief Financial Officer of Seller to such effect.

(c) Regulatory Approvals. All regulatory approvals from the Federal Reserve, FINRA, the FSA, the Financial Services Agency of Japan, under the HSR Act and any other regulatory approvals set forth in Section 4.4 the failure of which to obtain would reasonably be expected to have a material adverse effect on Purchaser or Seller, in each case required to consummate the transactions contemplated by this Agreement, including the Sale, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred as the "Purchaser Requisite Regulatory Approvals{ XE "Purchaser Requisite Regulatory Approvals" }").

(d) No Bankruptcy. No proceeding shall have been instituted and not dismissed by or against Seller seeking to adjudicate it bankrupt or insolvent, or seeking liquidation, winding up, reorganization, protection or other relief of it or its debts or any similar relief under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a custodian, receiver, trustee, administrative receiver, liquidator, provisional liquidator, administrator, custodian or other similar official for it or for any substantial part of its property; Seller shall not have made a general assignment for the benefit of creditors; and Seller shall not have taken any corporate action to authorize or consent to any of the actions set forth above in this Section 7.2(d).

(e) Purchaser shall have received a duly executed certificate from Seller dated as of the Closing Date, to the effect that Seller is not a foreign person pursuant to Treasury Regulation Section 1.1445-2(b)(2).

(f) *[to come – condition that “Street” facility to support assets remaining with Seller has been drawn upon]*.

7.3 Conditions to Obligations of Seller. The obligation of Seller to effect the Sale is also subject to the satisfaction or waiver by Seller at or prior to the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Purchaser set forth in Sections 4.2, 4.3(a), 4.3(b)(i) and 4.7 shall be true and correct in all material respects as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except that representations and warranties that by their terms speak specifically as of the date of this Agreement or another date shall be true and correct as of such date); and Seller shall have received a certificate signed on behalf of Purchaser by the Chief Executive Officer or the Chief Financial Officer of Purchaser to the foregoing effect.

(b) Performance of Obligations of Purchaser. Purchaser shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing, and Seller shall have received a certificate signed on behalf of Purchaser by the Chief Executive Officer or the Chief Financial Officer of Purchaser to such effect.

(c) Regulatory Approvals. All regulatory approvals from the Federal Reserve, FINRA, the FSA, the Financial Services Agency of Japan, under the HSR Act and any other regulatory approvals set forth in Section 3.4(a) the failure of which to obtain would reasonably be expected to have a material adverse effect on Purchaser or Seller, in each case required to consummate the transactions contemplated by this Agreement, including the Sale, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred as the “Seller Requisite Regulatory Approvals{ XE “Seller Requisite Regulatory Approvals” }”).

ARTICLE VIII
CLOSING DELIVERIES{ TC "ARTICLE XIII
CLOSING DELIVERIES" \L "1" \Y}

8.1 Deliveries by Seller to Purchaser{ TC "13.1 Deliveries by Seller to Purchaser at the First Closing" \l "2" \y}. At the Closing, Seller shall deliver to Purchaser:

(a) such instruments and other documents as are necessary to transfer to Purchaser all of Seller's and its Subsidiaries' right, title and interest in and to the Acquired Assets;

(b) the certificates referred to in Sections 7.2(a) and 7.2(b); and

(c) a duly executed certificate from Seller dated as of the Closing Date, to the effect that Seller is not a foreign person pursuant to Treasury Regulation Section 1.1445-2(b)(2);

8.2 Deliveries by Purchaser to Seller{ TC "13.2 Deliveries by Purchaser to Seller at First Closing" \l "2" \y}. At the Closing, Purchaser shall deliver to Seller:

(a) such instruments and other documents as are necessary to transfer to Purchaser title to the Stock Consideration; and

(b) the certificates referred to in Sections 7.3(a) and 7.3(b).

8.3

ARTICLE IX
TERMINATION{ TC "ARTICLE XV
TERMINATION" \L "1" \Y}

9.1 Termination{ TC "15.1 Termination" \l "2" \y}. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual consent of Purchaser and Seller in a written instrument, if the Board of Directors of each so determines;

(b) by either Purchaser or Seller if (i) any Governmental Entity which must grant a Requisite Regulatory Approval has denied approval of the Sale and such denial has become final and nonappealable or (ii) any Governmental Entity of competent jurisdiction shall have issued a final nonappealable order enjoining or otherwise prohibiting the consummation of the Sale;

(c) by either Purchaser or Seller if the Closing shall not have occurred on or before the first anniversary of the date of this Agreement, unless the failure of the Closing to occur by such date shall be due to the failure of the party seeking to terminate this Agreement to perform or observe the covenants and agreements of such party set forth herein;

(d) by either Purchaser or Seller (provided that the terminating party is not then in material breach of any representation, warranty, covenant or other agreement contained herein) if the other party shall have breached any of the covenants or agreements made by such other party

herein, and such breach (i) is not cured within 30 days following written notice to the party committing such breach, or which breach, by its nature, cannot be cured prior to the Closing and (ii) would entitle the non-breaching party not to consummate the transactions contemplated hereby under Article VII hereof;

(e) by Purchaser (i) if the Seller Stockholders Meeting shall have occurred and the authorization and approval of the Sale by the stockholders of Seller shall not have been obtained or (ii) if the Purchaser Shareholder Meeting shall have occurred and the approval of the Sale and the other transactions contemplated by this Agreement and the Transaction Documents by the shareholders of Purchaser shall not have been obtained and in the case of this clause (ii) 120 days shall have elapsed from the date of such Purchaser Shareholder Meeting and

(f) by Seller (i) if the Purchaser Shareholder Meeting shall have occurred and the approval of the Sale and the other transactions contemplated by this Agreement and the Transaction Documents by the shareholders of Purchaser shall not have been obtained or (ii) if the Seller Stockholder Meeting shall have occurred and the authorization and approval of the Sale by the stockholders of Seller shall not have been obtained and in the case of this clause (ii) 120 days shall have elapsed from the date of such Seller Stockholder Meeting;

(g) by Purchaser, if (i) the Board of Directors of Seller shall have failed to recommend the Sale, or shall have withdrawn, modified or changed in a manner adverse to Purchaser its recommendation of the Sale, (ii) Seller shall have materially breached its obligations under Section 6.5 by failing to call, give notice of, convene and hold the Seller Stockholders Meeting in accordance with Section 6.5 or (iii) Seller shall have materially breached its obligations under Section 6.7.

(h) By either Company or Parent, if its Board of Directors determines in good faith that the other party has substantially engaged in bad faith in breach of its obligation in Section 6.9.

(i) By Purchaser, if a Governmental Entity of competent jurisdiction shall have issued an order, injunction or decree, which order, injunction or decree remains in effect and has become final and nonappealable, that preliminarily or permanently enjoins or prohibits or makes illegal the issuance of shares of Seller Common Stock to purchaser pursuant to the Share Exchange Agreement or prevents Purchaser from voting such shares in favor of the approval and authorization of the Sale at the meeting of the Company stockholders held for that purpose.

9.2 Effect of Termination.

(a) In the event of termination of this Agreement by either Purchaser or Seller as provided in Section 9.1, this Agreement shall forthwith become void and have no effect, and none of Purchaser, Seller, any of their respective Subsidiaries or any of the officers or directors of any of them shall have any liability of any nature whatsoever hereunder, or in connection with the transactions contemplated hereby, except that (i) Sections 6.2(b), 6.10, 9.1, 9.2 and Article XI] shall survive any termination of this Agreement and (ii) notwithstanding anything to the contrary contained in this Agreement, neither Purchaser nor Seller shall be relieved or released from any liabilities or damages arising out of its knowing or willful breach of any provision of this Agreement.

(b) If this Agreement is terminated by either Purchaser or Seller pursuant to Section 9.1(e), then Seller shall pay Purchaser (on the second business day following such termination in the case of termination by Purchaser, or concurrently with such termination, in the case of termination by Seller), by wire transfer of immediately available funds, the sum of \$[] (the “No Vote Termination Fee”); provided, that the aggregate amount Seller may be obligated to pay pursuant to this Section 9.2 shall not exceed the Termination Fee.

(c) Seller shall pay Purchaser, by wire transfer of immediately available funds, the sum of \$[] (the “Termination Fee”), less the amount of any No Vote Termination Fee that shall previously been paid, if this Agreement is terminated as follows:

(i) if this Agreement is terminated by Purchaser pursuant to Section 9.1(g) or Section 9.1(h) then Seller shall pay the entire Termination Fee on the second business day following such termination; and

(ii) if this Agreement is terminated by (A) Purchaser pursuant to Section 9.1(g) or 9.1(h), or (B) (1) (a) by Purchaser pursuant to Section 9.1(d) or 9.1(e)(i) (b) by Seller pursuant to Section 9.1(f)(ii) or (c) by either Purchaser or Seller pursuant to Section 9.1(c), and (2) in any such case an Acquisition Proposal shall have been publicly announced or otherwise communicated or made known to the senior management or Board of Directors of Seller (or any person shall have publicly announced, communicated or made known a bona fide intention, whether or not conditional, to make an Acquisition Proposal) at any time after the date of this Agreement and prior to the date of the taking of the vote of the stockholders of Seller contemplated by this Agreement at the Seller Stockholders Meeting, in the case of clause (B), or the date of termination, in the case of clauses (A) or (C), then if within [12] months after such termination Seller or any of its Subsidiaries enters into a definitive agreement with respect to, or consummates, an Acquisition Proposal (which need not be the same Acquisition Proposal referred to above), Seller shall pay the Termination Fee on the date of the earlier of such execution or consummation.

(d) Any amount that becomes payable pursuant to Section 9.2(b) shall be paid by wire transfer of immediately available funds to an account designated by Purchaser.

(e) For purposes of this Section 9.2(e), the references to “more than 15%” in the definition of Acquisition Proposal shall be deemed to be references to “a majority” and the definition of Acquisition Proposal shall only refer to a transaction involving Seller and its Subsidiaries, and not just one or more of its Subsidiaries.

(f) Seller and Purchaser agree that the agreement contained in Sections 9.2(b) and (c) above is an integral part of the transactions contemplated by this Agreement, that without such agreement Purchaser would not have entered into this Agreement, and that such amounts do not constitute a penalty. If Seller fails to pay Purchaser the amounts due under Sections 9.2(b) and (c) above within the time periods specified in such Sections 9.2(b) and (c), Seller shall pay the costs and expenses (including reasonable legal fees and expenses) incurred by Purchaser in connection with any action, including the filing of any lawsuit, taken to collect payment of such amounts, together with interest on the amount of any such unpaid amounts at the prime lending

rate prevailing during such period as published in *The Wall Street Journal*, calculated on a daily basis from the date such amounts were required to be paid until the date of actual payment.

ARTICLE X TAX MATTERS

10.1 Tax Indemnity

(a) Purchaser Taxes. Purchaser shall be responsible for, shall pay and shall indemnify and hold Seller harmless from and against any and all Taxes of the Acquired Companies, including consolidated, combined, unitary or similar Taxes of any affiliated corporate group of which any Acquired Company was a member to the extent such Taxes are allocable to the Acquired Companies. The portion of any consolidated, combined, unitary or similar Tax allocable to the Acquired Companies will equal the aggregate liability for such Tax that would have been imposed on the Acquired Companies had they filed the relevant Tax Returns as an affiliated group composed only of the Acquired Companies. All such Taxes for which Purchaser is responsible pursuant to this Section 1.3(a) are referred to herein as "Purchaser Taxes." For the avoidance of doubt, Purchaser Taxes shall not include any Transfer Taxes, which are governed exclusively under Section 1.3(c).

(b) Seller Taxes. Seller shall be responsible for, shall pay and shall indemnify and hold Purchaser and the Acquired Companies harmless from and against (i) any and all Taxes of any member of an affiliated, consolidated, combined or unitary group of which the Acquired Companies (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury regulation section 1.1502-6 or any analogous or similar state, local, or foreign law or regulation other than Purchaser Taxes and (ii) any and all Taxes of any Person (other than the Acquired Companies) imposed on the Acquired Companies as a transferee or successor, by contract or pursuant to any law, rule or regulation, which Taxes relate to an event or transaction occurring before the Closing. All such Taxes for which Seller is responsible pursuant to this Section 1.3(b) are referred to herein as "Seller Taxes". For the avoidance of doubt, Seller Taxes shall include any Taxes (other than Transfer Taxes (which are governed exclusively under Section 1.3(c)) and Purchaser Taxes) in respect of any income or gain of the Acquired Companies that are triggered as a result of the transactions contemplated by this Agreement, including any deferred intercompany items described in Treasury regulation section 1.1502-13 and any excess loss accounts taken into income under Treasury regulation section 1.1502-19.

(c) Transfer Taxes. All Transfer Taxes that may be imposed upon, or payable or collectible, or incurred in connection with, this Agreement shall be borne equally by Seller and Purchaser, and each of Seller and Purchaser shall promptly reimburse the other upon demand and delivery of proof of payment. Purchaser and Seller shall cooperate with each other in order to minimize applicable Transfer Taxes in a manner that is mutually agreeable and in compliance with Applicable Law, and shall to that extent execute such documents, agreements, applications, instruments, or other forms as reasonably required. Any Tax Returns that must be filed in connection with Transfer Taxes shall be prepared and filed when due by the party primarily or customarily responsible under the Applicable Law for the filing of such Tax Returns, and such

party will use its commercially reasonable efforts to provide such Tax Returns to the other party at least [10] days prior to the due date for such Tax Returns for review and comment.

10.2 Survival and Exclusive Remedy. (a) All obligations for indemnity under this Article [] shall survive the Closing hereunder and continue until 90 days following the expiration of the statute of limitations on assessment of the relevant Tax (the “Cut-Off Date”). Notwithstanding the foregoing, no party shall be responsible for any claim for indemnification hereunder (such claim, a “Tax Claim”), unless the party seeking indemnification shall have, prior to the Cut-Off Date, advised the other party in writing reasonably promptly after it becomes aware or reasonably should have become aware that it may have a Tax Claim, specifying in reasonable detail the basis under this Agreement for such Tax Claim.

(b) Notwithstanding anything to the contrary in this Agreement, Tax Claims will be governed exclusively by this [Article]

10.3 Tax Returns.

(a) Purchaser shall be responsible for the timely filing (taking into account any extensions received from the relevant Tax authorities) of and shall control all Tax Returns required by law to be filed with respect to the Acquired Companies after the Closing Date, including Tax Returns for which the Acquired Companies join in filing on a consolidated, combined, unitary or similar basis with the Seller or any of its Affiliates for a taxable period ending on or prior to, or including, the Closing Date (the “Consolidated Tax Returns”) to the extent such Consolidated Tax Returns relate to Purchaser Taxes. Except as otherwise provided in Section [1.5(b)], all Tax Returns filed by Seller or any of its Affiliates after the date hereof and prior to Closing shall be prepared and filed in a manner consistent with prior practice, except as required by a change in Applicable Law.

(b) Purchaser and Seller shall cooperate in good faith in determining with respect to any Tax Returns filed after the date hereof and prior to the Closing Date, the manner of preparation and filing, including, the manner in which any item of income, gain, loss, deduction or credit shall be determined and reported, whether any extensions may be requested, and the elections that will be made by, or with respect to, Seller or any Acquired Company included in such Tax Returns. In case of any dispute, the Parties shall act in good faith to resolve any dispute with respect to such Tax Returns, provided that if they are unable to do so, such disputed items shall be submitted to the [Independent Accounting Firm] for final resolution, which shall be final, binding and conclusive. Seller and Purchaser agree promptly to provide to such accounting firm all relevant information. [The costs of such resolution shall be borne equally between the parties.]

10.4 Tax Contests. Purchaser shall have the sole right to control the conduct and resolution of any audit, litigation, contest, dispute or negotiation (“Contest”) to the extent such Contest relates to Purchaser Taxes, at its own expense, including by choosing counsel of its choice, regardless of whether Seller is the party that is required to pursue such Contest under Applicable Law. To the extent Seller is required to pursue such Contest under Applicable Law, (A) Seller shall follow Purchaser’s instructions in respect of such Contest and report to Purchaser and keep Purchaser informed regarding the progress and any potential compromise or settlement

of such Contest, (B) Purchaser shall be entitled to participate at its own expense in each such Contest; and (C) Seller shall not settle or compromise any such Contest, without Purchaser's consent [(not to be unreasonably withheld).]

10.5 Refunds and Tax Benefits. Seller shall be entitled to any Tax Refund for or attributable to Seller Taxes and Purchaser shall pay the value of any such Tax Refund received by Purchaser or the Acquired Companies to Seller promptly following its receipt. Purchaser shall be entitled to any Tax Refund for or attributable to Purchaser Taxes and Seller shall pay the value of any such Tax Refund received by Seller to Purchaser promptly following its receipt.

10.6 Cooperation. From the date hereof, Seller and Purchaser agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information (including, without limitation, access to books and records, officers or employees) and assistance relating to the Acquired Companies and the Acquired Assets as is necessary to carry out the provisions of this Article [], including without limitations to achieve a Tax efficient structure for the acquisition of the Acquired Companies and the Acquired Assets by Purchaser and the implementation of the transactions contemplated by this Agreement, for the filing of any Tax Returns, for the preparation of, and for the prosecution or defense of any Contest. Any information obtained under this Section [1.8] shall be kept confidential except as may be required by Applicable Law, or with the consent of the Seller or Purchaser, as the case may be. The Acquired Companies, Seller and Purchaser agree to retain all books and records with respect to Tax matters pertinent to each of the Acquired Companies until expiration of the statute of limitations (including any extensions thereof) of the taxable periods to which such Tax matters relate. Purchaser and Seller shall provide each other with reasonably prompt written notice upon their receipt of any notice relating to any possible Contest.

10.7 Tax Planning. Seller agrees to implement such Tax planning measures, as Purchaser shall reasonably request, in order to improve the Tax efficiency of the acquisition of the Acquired Companies and the Acquired Assets by Purchaser and the implementation of the transactions contemplated by this Agreement.

10.8 Tax Sharing Agreements. All Tax sharing agreements, arrangements, policies and guidelines, formal or informal, express or implied, that may exist between the Acquired Companies and Seller or its Affiliates or in respect of the Acquired Assets and all obligations thereunder shall terminate as of the Closing, and the Acquired Companies or Purchaser in respect of the Acquired Assets shall have no liability thereunder for any and all amounts due in respect of periods prior to the Closing Date.

10.9 Section 338 Election. At Purchaser's request, Seller shall join Purchaser in making a Code Section 338(h)(10) election (and any similar election under any applicable provision of state, local or foreign income Tax law provisions) (a "Section 338 Election") in connection with the purchase and sale of any of the Acquired Companies. Purchaser and Seller shall jointly determine and allocate the Purchase Price (determined in accordance with Code Section 338) among the assets deemed to have been acquired as a result of the 338 Election. Similarly, Seller acknowledges that Purchaser may make Code Section 338(g) elections with respect to the Acquired Companies.

10.10 Tax Treatment of Indemnification. All indemnity payments made pursuant to this Agreement by one party to another party shall be treated by the parties as an adjustment to the consideration paid pursuant to Section 2.2.

ARTICLE XI

INDEMNIFICATION

11.1 Indemnification by Seller. From and after the Closing, Seller shall indemnify Purchaser and its affiliates and each of their respective officers, directors, employees, agents and representatives (the "Purchaser Indemnitees") against and hold them harmless from any loss, liability, claim, damage or expense (including legal fees and expenses) ("Losses") suffered or incurred by any such Purchaser Indemnitee to the extent arising from any Excluded Liability.

11.2 Indemnification by Purchaser. From and after the Closing, Purchaser shall indemnify Seller and its affiliates and each of their respective officers, directors, employees, agents and representatives (the "Seller Indemnitees") against and hold them harmless from any Loss suffered or incurred by any such Seller Indemnitee to the extent arising from any Acquired Liability.

11.3 Procedures Relating to Indemnification for Third Party Claims. (a) In order for a Purchaser Indemnitee or a Seller Indemnitee (the "indemnified party") to be entitled to indemnification from a party (the "indemnifying party") pursuant to Section 11.1 or Section 11.2, as the case may be, in respect of, arising out of or involving a claim or demand made by any person against the indemnified party (a "Third Party Claim"), such indemnified party must notify the indemnifying party in writing, and in reasonable detail, of the Third Party Claim within 10 business days after receipt by such indemnified party of written notice of the Third Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided pursuant to Section 11.1 or Section 11.2, as the case may be, except to the extent the indemnifying party shall have been prejudiced as a result of such failure. Thereafter, the indemnified party shall deliver to the indemnifying party, promptly after the indemnified party's receipt thereof, copies of all notices and documents (including court papers) received by the indemnified party relating to the Third Party Claim; provided, however, that failure to give such copies shall not affect the indemnification provided pursuant to Section 11.1 or Section 11.2, as the case may be, except to the extent the indemnifying party shall have been prejudiced as a result of such failure.

(b) If a Third Party Claim is made against an indemnified party, the indemnifying party shall be entitled to participate in the defense thereof and, if it so chooses, to assume the defense thereof with counsel selected by the indemnifying party; provided, however, that such counsel is not reasonably objected to by the indemnified party. Should the indemnifying party so elect to assume the defense of a Third Party Claim, the indemnifying party shall not be liable to the indemnified party for legal expenses subsequently incurred by the indemnified party in connection with the defense thereof, unless the indemnified party retains its own counsel due to a mutually agreed upon conflict of interest, or except as otherwise set forth below. If the

indemnifying party assumes such defense, the indemnified party shall have the right to participate in the defense thereof and to employ counsel (not reasonably objected to by the indemnifying party), at its own expense, separate from the counsel employed by the indemnifying party, it being understood that the indemnifying party shall control such defense. The indemnifying party shall be liable for the fees and expenses of counsel employed by the indemnified party for any period during which the indemnifying party has failed to assume the defense thereof. If the indemnifying party so elects to assume the defense of any Third Party Claim, all of the indemnified parties shall, and shall cause their affiliates to, cooperate with the indemnifying party in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the indemnifying party's request) the provision to the indemnifying party of records and information which are reasonably relevant to such Third Party Claim (subject to the indemnifying party's agreement to reasonable confidentiality undertakings), and making employees available on a mutually convenient reasonably requested basis to provide additional information and explanation of any material provided hereunder. Whether or not the indemnifying party shall have assumed the defense of a Third Party Claim, the indemnified party shall not admit any liability with respect to, or settle, compromise or discharge such Third Party Claim without the indemnifying party's prior written consent (which consent shall not be unreasonably withheld), unless the indemnified party irrevocably waives its right to indemnification under Section 11.1 or Section 11.2, as the case may be, with respect to such Third Party Claim. If the indemnifying party assumes the defense of a Third Party Claim, the indemnified party shall agree to any settlement, compromise or discharge of a Third Party Claim that the indemnifying party may recommend and that by its terms obligates the indemnifying party to pay the full amount of any and all liability in connection with such Third Party Claim (including all Losses suffered or incurred by the indemnified party for which indemnification is required pursuant to Section 11.1 or Section 11.2, as the case may be); provided, however, that such settlement, compromise or discharge (i) requires only payment of monetary damages by the indemnified party, and (ii) provides for an unconditional release of the indemnified party in respect of such Third Party Claim.

11.4 Procedures Related to Indemnification for Claims Other than Third Party Claims. In the event any indemnified party should have a claim against any indemnifying party under Section 11.1 or Section 11.2 that does not involve a Third Party Claim, the indemnified party shall deliver notice of such claim to the indemnifying party reasonably promptly upon notice of such claim by the indemnified party. The failure by any indemnified party so to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to such indemnified party pursuant to Section 11.1 or Section 11.2, as the case may be, except to the extent that the indemnifying party has been prejudiced by such failure. If the indemnifying party disputes its liability with respect to such claim, the indemnifying party and the indemnified party shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through such negotiations, such dispute shall be resolved by litigation in an appropriate court of competent jurisdiction.

11.5 Certain Damages Not Covered. Notwithstanding any provision herein, neither the Sellers nor Purchaser shall in any event be liable on account of any indemnity obligation set forth in Section 11.1 or Section 11.2, as the case may be, for any indirect, consequential, special, incidental or punitive damages.

ARTICLE XII
MISCELLANEOUS{ TC "ARTICLE XI
MISCELLANEOUS" \L "1" \Y}

12.1 Nonsurvival of Representations, Warranties and Agreements. None of the representations, warranties, covenants and agreements set forth in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Closing, except for those other covenants and agreements contained in this Agreement that by their terms apply or are to be performed in whole or in part after the Closing.

12.2 Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed given if delivered personally, sent via facsimile (with confirmation), mailed by registered or certified mail (return receipt requested) or delivered by an express courier (with confirmation) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Seller, to:

[]
Attention: []
Facsimile: []

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

[]
Attention: []
Facsimile: []

(b) if to Purchaser, to:

[]
Attention: []
Facsimile: []

with a copy to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Attention: Victor I. Lewkow
 Robert P. Davis
Facsimile: (212) 225-3999

12.3 Interpretation. When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to a Article or Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or

interpretation of this Agreement. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.” All schedules and exhibits hereto, shall be deemed part of this Agreement and included in any reference to this Agreement. The meaning assigned to each term defined herein shall be equally applicable to both the singular and the plural forms of such term, and words denoting any gender shall include all genders. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning. This Agreement shall not be interpreted or construed to require any person to take any action, or fail to take any action, if to do so would violate any applicable law. If any term, provision, covenant or restriction contained in this Agreement is held by a court or a federal or state regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions and covenants and restrictions contained in this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated. If for any reason such court or regulatory agency determines that any provision, covenant or restriction is invalid, void or unenforceable, it is the express intention of the parties that such provision, covenant or restriction be enforced to the maximum extent permitted.

12.4 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other party, it being understood that each party need not sign the same counterpart.

12.5 Entire Agreement. This Agreement (including the documents and the instruments referred to in this Agreement), together with the Confidentiality Agreement, constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement, other than the Confidentiality Agreement.

12.6 Governing law; Jurisdiction. This Agreement shall be governed and construed in accordance with the internal laws of the State of Delaware applicable to contracts made and wholly-performed within such state, without regard to any applicable conflicts of law principles. The parties hereto agree that any suit, action or proceeding brought by either party to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal or state court located in the State of Delaware. Each of the parties hereto submits to the jurisdiction of any such court in any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of, or in connection with, this Agreement or the transactions contemplated hereby and hereby irrevocably waives the benefit of jurisdiction derived from present or future domicile or otherwise in such action or proceeding. Each party hereto irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

12.7 Publicity. Neither Seller nor Purchaser shall, and neither Seller nor Purchaser shall permit any of its Subsidiaries to, issue or cause the publication of any press release or other public announcement with respect to, or otherwise make any public statement concerning, the transactions contemplated by this Agreement without the prior consent (which consent shall not

be unreasonably withheld) of Purchaser, in the case of a proposed announcement or statement by Seller, or Seller, in the case of a proposed announcement or statement by Purchaser; provided, however, that either party may, without the prior consent of the other party (but after prior consultation with the other party to the extent practicable under the circumstances) issue or cause the publication of any press release or other public announcement to the extent required by law or by the rules and regulations of the NYSE.

12.8 Assignment; Third Party Beneficiaries. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned by either of the parties (whether by operation of law or otherwise) without the prior written consent of the other party. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by each of the parties and their respective successors and assigns. This Agreement (including the documents and instruments referred to in this Agreement) is not intended to and does not confer upon any person other than the parties hereto any rights or remedies under this Agreement. In no event shall any obligations of Purchaser hereunder or under any other agreement entered into in connection herewith (including but not limited to the Purchaser Loan Agreement) be deemed to relieve any insurer or other third party from any obligation with respect to the Seller or its Subsidiaries, or any of their respective directors, officers or employees.

12.9 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to seek specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

[]

By: _____
Name:
Title:

[]

By: _____
Name:
Title:

STOCKHOLDER VOTING AGREEMENT

THIS STOCKHOLDER VOTING AGREEMENT (this "Agreement") is entered into as of September [14], 2008 by and among the stockholders listed on the signature page(s) hereto (collectively, the "Stockholders" and each individually, a "Stockholder"), **[Long Island Holdings]**, Inc., a Delaware corporation ("Seller"), and **[B. B. plc]**, an English public limited company ("Purchaser"). Capitalized terms used and not otherwise defined herein shall have the respective meanings assigned to them in the Acquisition Agreement referred to below.

WHEREAS, as of the date hereof, each Stockholder is the sole Beneficial Owner (as defined below) of the shares of Common Stock, \$0.10 par value per share, of Seller set forth opposite such Stockholder's name on Schedule I hereto (such shares together with all other shares of **[Seller Common Stock]** that are Beneficially Owned directly or indirectly by such Stockholder or any Person controlled by or under common control with such Stockholder, whether acquired on, prior to or after the date hereof, are referred to herein as such Stockholder's "Shares");

WHEREAS, concurrently with the execution of this Agreement, Purchaser and Seller are entering into an **[Asset Purchase]** Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Acquisition Agreement"), pursuant to which, upon the terms and subject to the conditions thereof, Seller **[and certain of its Affiliates]** shall sell, transfer, convey, and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from Seller the **[Acquired Assets]**, and Purchaser shall assume the **[Assumed Liabilities]**; and

WHEREAS, as a condition to the willingness of Purchaser to enter into the Acquisition Agreement, Purchaser has required that the Stockholders enter into, and in order to induce Seller to enter into the Acquisition Agreement, the Stockholders are willing to enter into, this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the parties hereby agree, severally and not jointly, as follows:

Section 1. Voting of Shares. Each Stockholder covenants and agrees that unless this Agreement is terminated in accordance with its terms, at the **[Seller Meeting]** and any other meeting of the stockholders of Seller, however called, and in any action by written consent of the stockholders of Seller, such Stockholder (a) will vote or consent to, or cause to be voted or consented to, all of his, her or its Shares to approve the Acquisition Agreement and all related agreements and transactions and (b) will vote all of his, her or its Shares against, or cause to be voted against, and will not provide consents to, (I) any and all **[Acquisition Proposals]** and agreements or transactions providing for or relating to any and all **[Acquisition Proposals]**, (II) any proposal or nomination made, directly or indirectly, by or on behalf of a Person who is, or whose Affiliate is, making, or has communicated an intention to make, an **[Acquisition Proposal]** in connection with or related to any such **[Acquisition Proposal]**, (III) any other action, agreement, proposal or transaction that is intended, or could be reasonably expected, to materially impede, interfere with, delay, postpone, discourage or adversely affect the closing of

the transactions provided for in the Acquisition Agreement, and (IV) any action, agreement, proposal or transaction that would reasonably be expected to result in a breach of the Acquisition Agreement. In the event the Acquisition Agreement is amended in accordance with its terms to provide for a tender offer structure, such Stockholder shall tender his, her or its Shares into such tender offer before the scheduled expiration date for such tender offer by Purchaser.

Section 2. Transfer of Shares.

(a) Each Stockholder covenants and agrees that, without the written consent of Purchaser, such Stockholder will not directly or indirectly (i) sell, assign, transfer (including pursuant to or in connection with any **[Acquisition Proposal]**, interspousal disposition pursuant to a domestic relations proceeding or otherwise by operation of law), pledge, encumber, assign or otherwise dispose of (“Transfer”) any Shares or the Beneficial Ownership (as hereinafter defined) thereof (except to a Permitted Transferee), (ii) deposit any Shares into a voting trust or enter into a voting agreement or arrangement with respect to any Shares or the Beneficial Ownership thereof or grant or agree to grant any proxy or power of attorney with respect thereto which is inconsistent with this Agreement or (iii) enter into any contract, option or other arrangement or undertaking (A) with respect to the direct or indirect Transfer of any Shares or the Beneficial Ownership thereof (except, in each case under clause (i) and this clause (iii), to a Permitted Transferee) or (B) that is inconsistent with terms of this Agreement. For purpose of this Agreement, “Beneficial Ownership” shall have the meaning given to such term in Rule 13d-3 under the Exchange Act (disregarding the reference to “within 60 days” in Rule 13d-3(d)(1)(i)). As used herein, a “Permitted Transferee” shall mean a Person that is a signatory to this Agreement as of the date hereof, owns Shares continuously from the date hereof through the time of the action proposed under Section 2(a)(i) or Section 2(a)(iii), and has not violated this Agreement. In connection with any Transfer of Shares to a Permitted Transferee, the transferring Stockholder may transfer its rights and obligations under this Agreement to the Permitted Transferee, but the transferring Stockholder shall remain primarily liable for all breaches of such obligations before such Transfer and shall remain secondarily liable for all breaches of such transferred obligations from and after such Transfer. Notwithstanding anything herein to the contrary, nothing in this Agreement shall permit any Transfer of Shares, Beneficial Ownership, rights or obligations or any other action that would otherwise be permitted by this Section 2(a) if such Transfer or other action would create any material impediment or delay to the performance or consummation of the Acquisition Agreement or this Agreement, including, without limitation, triggering the applicability of any **[Takeover Statute]** to the Acquisition Agreement, this Agreement or any of the transactions contemplated by the Acquisition Agreement or this Agreement.

(b) Each Stockholder undertakes that, while this Agreement is in effect, except as contemplated by Section 7, such Stockholder shall not, directly or indirectly, (i) solicit, initiate, propose or knowingly encourage or take any other action to knowingly facilitate an **[Acquisition Proposal]**, (ii) enter into any letter of intent, memorandum of understanding, agreement, option agreement, voting agreement or other agreement or arrangement with respect to any **[Acquisition Proposal]** or (iii) enter into, continue, participate, engage or knowingly assist in any manner in negotiations or discussions with, or provide any non-public information or data to, any person (other than Purchaser or any of its affiliates or representatives) relating to any **[Acquisition Proposal]**.

Section 3. Reasonable Efforts to Cooperate.

(a) Except as contemplated by Section 7, each Stockholder will, without further consideration, promptly provide any information reasonably requested by Seller or Purchaser for any regulatory application or filing made or approval sought in connection with the transactions contemplated by this Agreement or the Acquisition Agreement (including filings with the SEC or any other Governmental Entity).

(b) Each Stockholder hereby consents to the publication and disclosure in the **[Proxy Statement]**, statements of beneficial ownership filed by Purchaser and its Affiliates and any other documents or communications provided by Purchaser or Seller to any Governmental Entity or to security holders of Seller, such Stockholder's identity and Beneficial Ownership of the Shares and the nature of such Stockholder's commitments, arrangements and understandings under and relating to this Agreement.

(c) Each Stockholder agrees, while this Agreement is in effect, (i) upon written request by Purchaser, to notify Purchaser promptly in writing of the number of additional Shares, any options to purchase Shares or other securities of Seller acquired by such Stockholder, if any, after the date hereof and (ii) to notify Purchaser promptly in writing if it receives, in its capacity as a Stockholder, any inquiries or proposals relating to the matters contemplated by Section 2(b) and to include in such notice the identity of the counterparty and the material provisions of the inquiry or proposal.

Section 4. Representations and Warranties of the Stockholders. Each Stockholder on such Stockholder's own behalf hereby severally, and not jointly, represents and warrants to Purchaser as follows:

(a) Ownership of Shares. Except as set forth on Schedule I hereto, the Stockholder (i) is the sole Beneficial Owner of all of the Shares as set forth opposite his, her or its name on Schedule I hereto, (ii) as of the date hereof, such Stockholder does not Beneficially Own any Shares other than the Shares set forth opposite his, her or its name on Schedule I hereto and (ii) has sole voting power with respect to all of the Shares set forth opposite his, her or its name on Schedule I hereto and has not entered into any voting agreement or voting trust with respect to any such Shares and has not as of the date hereof granted a proxy, consent or power of attorney with respect to such Shares and, so long as this Agreement is in effect, will not grant any such proxies, consents and powers of attorney with respect to such Shares that are inconsistent with this Agreement.

(b) Power, Binding Agreement. The Stockholder has the requisite power and authority to enter into and perform all of its obligations under this Agreement and no further proceedings or actions on the part of such Stockholder are necessary to authorize the execution, delivery or performance by such Stockholder of this Agreement or the consummation by such Stockholder of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Stockholder and constitutes a valid and binding obligation of the Stockholder, enforceable against the Stockholder in accordance with its terms.

(c) No Conflicts. The execution and delivery of this Agreement by the Stockholder do not, and the consummation of the transactions contemplated hereby by the Stockholder will not, result in any breach or violation of, require any consent under, be in conflict with or constitute a default (whether with notice of lapse of time or both) under any mortgage, bond, indenture, agreement, instrument, obligation, judgment, order, decree, law or regulation to which the Stockholder is a party or by which the Stockholder (or his, her or its Shares) are bound, except for any such breach, violation, conflict or default which, individually or in the aggregate, would not in any material respect impair or adversely affect the Stockholder's ability to perform his, her or its obligations under this Agreement. Except as expressly contemplated hereby or as set forth on Schedule I hereto, the Stockholder is not a party to any voting agreement or voting trust relating to the Shares.

Section 5. Termination. This Agreement shall terminate upon the first to occur of (a) the **[Effective Time]** and (b) the termination of the Acquisition Agreement in accordance with the terms thereof. Any such termination shall be without prejudice to liabilities arising hereunder before such termination.

Section 6. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or in equity.

Section 7. Fiduciary Duties. Each Stockholder is signing this Agreement solely in such Stockholder's capacity as an owner of his, her or its respective Shares, and nothing herein shall prohibit, prevent or preclude such Stockholder from taking or not taking any action in his or her capacity as an officer or director of Seller to the extent such action in such capacity does not constitute a breach of the Acquisition Agreement.

Section 8. Miscellaneous.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties hereto, written or oral, with respect to the subject matter hereof, and the parties hereto specifically disclaim reliance on any such prior understandings, agreements or representations to the extent not embodied in this Agreement. This Agreement may not be amended, modified or rescinded except by an instrument in writing signed by each of the parties hereto; provided, that Purchaser may waive compliance by any other party with any representation, agreement or condition otherwise required to be complied with by any such party under this Agreement or release any other party from its obligations under this Agreement, but any such waiver or release shall be effective only if in writing and executed by Purchaser.

(b) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the

parties hereto agree that the court making such determination shall have the power to limit the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

(d) Counterparts and Signature. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission.

(e) Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly delivered (i) four Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, or (ii) one Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service, or (iii) on the date of confirmation of receipt (or the first Business Day following such receipt if the date of such receipt is not a Business Day) of transmission by facsimile, in each case to the intended recipient as set forth below:

(i) if to a Stockholder to the address set forth below such Stockholder's name on Schedule I to this Agreement;

(ii) if to Purchaser to:

with a copy to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Attn: Victor Lewkow, Esq.
Robert Davis, Esq.
Telecopy: (212) 225-3999

(iii) if to Seller to:

with a copy to:

Any party to this Agreement may give any notice or other communication hereunder using any other means (including personal delivery, messenger service, telex, ordinary mail or electronic mail), but no such notice or other communication shall be deemed to have been duly given unless and until it actually is received by the party for whom it is intended. Any party to this Agreement may change the address to which notices and other communications hereunder are to be delivered by giving the other parties to this Agreement notice in the manner herein set forth.

(f) No Third Party Beneficiaries. This Agreement is not intended, and shall not be deemed, to confer any rights or remedies upon any person other than the parties hereto and their respective successors and permitted assigns or to otherwise create any third-party beneficiary hereto.

(g) Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of the other parties, and any such assignment or delegation without such prior written consent shall be null and void, except that Purchaser may assign this Agreement to any direct or indirect wholly owned subsidiary of Purchaser without the consent of Seller or the Stockholders (provided that Purchaser shall remain liable for all of its obligations under this Agreement) and any Stockholder may assign this Agreement to the extent permitted by, and in accordance with, Section 2(a). Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns.

(h) Interpretation. When reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement, unless otherwise indicated. The headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." No summary of this Agreement prepared by the parties shall affect in any way the meaning or interpretation of this Agreement.

(i) Submission to Jurisdiction. Each of the parties to this Agreement (i) consents to submit itself to the personal jurisdiction of any state or federal court sitting in The Borough of Manhattan in any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement, (ii) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, (iii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (iv) agrees not to bring any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement in any other court. Each of the parties hereto waives any defense of inconvenient forum to the maintenance of any

action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Any party hereto may make service on another party by sending or delivering a copy of the process to the party to be served at the address and in the manner provided for the giving of notices in Section 8(e). Nothing in this Section, however, shall affect the right of any party to serve legal process in any other manner permitted by law.

(j) Expenses. All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed individually or by its respective duly authorized officer as of the date first written above.

SELLER

By: _____
Name: _____
Title: _____

PURCHASER

By: _____
Name: _____
Title: _____

STOCKHOLDERS:

Signature

Name

Signature

Name

Schedule I

Stockholder Name
and Address

Certificate Number

Number of Shares

Notes

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (this "Agreement") is entered into as of the ___th day of September 2008, by Barclays Bank PLC, a British banking institution headquartered in London, England (the "Lender") and GREEN INC., a Delaware corporation ("Green"), as borrower.

WHEREAS, Lender is a party to an [Asset Purchase] Agreement with Green, dated as of the date hereof (as amended from time to time, the "Acquisition Agreement"); and

WHEREAS, as a condition precedent to entering into the Acquisition Agreement, Green and the Lender have entered into this Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Green and the Lender agrees as follows:

I. (a) Revolving Loans. Subject to the terms and conditions set forth herein, the Lender agrees to make loans denominated in U.S. dollars to Green from time to time, on any Business Day (as defined in the Acquisition Agreement) from the date hereof until the End Date (as defined below), in an aggregate U.S. dollar amount not to exceed at any time outstanding [_____] U.S. dollars (U.S.\$[_____]). Subject to the terms and conditions set forth herein, Green may borrow, prepay and reborrow loans under this Agreement. Each loan under this Agreement shall be made upon Green's notice to Lender, which may be given by telephone and must be received by the Lender not later than [12:00 noon New York time] one (1) Business Day before the requested date of any such loan (or at such earlier time as is acceptable to the Lender). Each such telephonic notice must be confirmed promptly in writing by delivery of a notice from Green to the Lender specifying (i) the principal amount of such loan in U.S. dollars (which shall be in a principal amount of [one million U.S. dollars (U.S.\$1,000,000)] or a whole multiple of \$[one million U.S. dollars (U.S.\$1,000,000)] in excess thereof, (ii) the requested date of the loan (which shall be a Business Day) and (iii) the intended use of proceeds of such loan. The Lender shall make the amount of any loan so requested available to Green not later than [2:00 p.m. New York time] on the Business Day specified in the applicable notice either by (i) crediting the account of Green on the books of the Lender with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Lender by Green.

(b) Prepayment. Green may, upon notice to the Lender, at any time or from time to time voluntarily prepay loans under this Agreement in whole or in part without premium or penalty; provided that (i) such notice must be received by the Lender not later than [12:00 noon New York time] on the date of any such prepayment and (ii) any prepayment of loans under this Agreement shall be in a principal amount of [one million U.S. dollars (U.S.\$1,000,000)] or a whole multiple of \$[one million U.S. dollars (U.S.\$1,000,000)] if such prepayment is of less than the entire principal amount of loans under this Agreement then outstanding. Each such notice shall specify the date and amount of such prepayment, and the payment amount specified in such

notice shall be due and payable on the date specified therein. All such prepayments shall be accompanied by all accrued interest thereon.

(c) Repayment. Green shall repay the Lender the aggregate principal amount of all of its loans outstanding under this Agreement no later than the End Date (as defined below). Such repayment shall be accompanied by all accrued interest thereon.

(d) Interest. Subject to the terms and conditions set forth herein, each loan under this Agreement shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to [the rate of interest in effect for such day as publicly announced from time to time by the Lender as its “prime rate” plus [] %]. Green shall pay interest on past due amounts hereunder at a rate per annum equal to such rate plus and additional [2]%, to the fullest extent permitted by applicable law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand. Interest on each loan under this Agreement shall be due and payable in arrears [on the End Date or on such earlier date when Green shall repay the Lender the aggregate principal amount of all of its loans outstanding under this Agreement]. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law (as defined below). All computations of interest for loans under this Agreement shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed; provided that any such loan that is repaid on the same day on which it is made shall bear interest for one day.

(e) Evidence of Indebtedness. The loans made under this Agreement shall be evidenced by one or more accounts or records maintained by the Lender and evidenced by one or more entries in a register maintained by the Lender, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Lender shall be prima facie evidence absent manifest error of the amount of the loans made by the Lender to Green and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of Green hereunder to pay any amount owing with respect to any such obligations. Upon the request of the Lender, Green shall execute and deliver to the Lender a note in customary form payable to the Lender, which shall evidence the Lender’s loans hereunder in addition to such accounts or records.

(f) Payments Generally. All payments to be made by Green shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by Green hereunder shall be made to the Lender at the Lender’s office for payment and in same day funds not later than [2:00 p.m. New York time] on the date specified herein. If any payment to be made by Green shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(g) Taxes.

(i) Any and all payments by Green to or for the account of the Lender under this Agreement shall be made free and clear of and without deduction for any and all

present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding taxes imposed on or measured by the Lender's overall net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which the Lender is organized or maintains a lending office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If Green shall be required by any laws to deduct any Taxes from or in respect of any sum payable under this Agreement to the Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) Green shall make such deductions, (iii) Green shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable laws, and (iv) within 30 days after the date of such payment, Green shall furnish to the Lender the original or a certified copy of a receipt evidencing payment thereof; *provided, however*, that no increased amounts shall be payable under this Section 1(g)(i) if Green is required to deduct Taxes by reason of the Lender's failure to comply with Section 1(g)(iii) below.

(ii) In addition, Green agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under this Agreement or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement.

(iii) The Lender agrees to complete and deliver to Green, prior to the date on which the first payment to Green is due hereunder and (so long as it remains eligible to do so) from time to time thereafter, (i) an Internal Revenue Service Form W-8BEN certifying that it is entitled to benefits under an income tax treaty to which the United States is a party that reduces the rate of withholding tax on payments of interest to zero or (ii) an Internal Revenue Service Form W-8ECI certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States, as appropriate. The Lender further agrees to complete and deliver to Green from time to time, so long as it is eligible to do so, any successor or additional form required by the Internal Revenue Service or reasonably requested by Green in order to secure an exemption from, or reduction in the rate of, U.S. withholding tax; *provided, however*, that the Lender shall not be obligated to complete and deliver any form requiring disclosure of information or statements that it considers to be confidential or otherwise disadvantageous to disclose.]

(h) Conditions to Borrowing. The obligation of the Lender to honor any request for a loan hereunder is subject to (i) the receipt by the Lender of a notice from Green pursuant to Section 1(c) above and (ii) the use of the proceeds of such loan in accordance with Section 1(i) below.

(i) Use of Proceeds. The proceeds of loans under this Agreement shall be used solely to satisfy Covered Liabilities (as defined below) promptly following the receipt of such proceeds.

(j) Events of Default and Remedies. Each of the events referred to in clauses (i) through (v) of this Section 1(j) shall constitute an “Event of Default”:

(i) Green fails to pay when and as required to be paid herein, any amount of principal of or interest on any loan under this Agreement.

(ii) Green fails to perform or observe the covenant contained in Section 1(i) of this Agreement relating to use of proceeds.

(iii) Green or any of its [Subsidiaries] (as defined in the Acquisition Agreement) institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such person and the appointment continues undischarged or unstayed for thirty (30) calendar days; or any proceeding under any Debtor Relief Law relating to any such person or to all or any material part of its property is instituted without the consent of such person and continues undismissed or unstayed for thirty (30) calendar days, or an order for relief is entered in any such proceeding.

If any Event of Default occurs and is continuing, the Lender may take any or all of the following actions:

(A) declare its commitment to make loans under this Agreement to be terminated, whereupon such commitments shall be terminated;

(B) declare the unpaid principal amount of all outstanding loans under this Agreement, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Green; and

(C) exercise all rights and remedies available to it under this Agreement and applicable law;

provided that, upon the occurrence of an actual or deemed entry of an order for relief with respect to Green or any of its [Subsidiaries] under the Bankruptcy Code of the United States, as it may be amended from time to time, the commitment of the Lender to make loans under this Agreement shall automatically terminate, the unpaid principal amount of all outstanding loans hereunder and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Lender.

2. As used in this Agreement:

(a) The term “Covered Green Entities” means Green and the affiliates of Green listed on Schedule 1 hereto. For the avoidance of doubt, Covered Green Entities does not include (x) any successor, assign or transferee of Green or the entities listed on Schedule 1, which successor, assign or transferee is not an affiliate of the Lender, or (y) any subsidiary, affiliate, fund, special purpose entity, variable interest entity, investment vehicle or other entity owned (directly or indirectly), affiliated with or organized, promoted, sponsored, managed or otherwise administered in any manner by Green or any Green affiliate listed on Schedule 1 or in which Green or any such Green affiliate has or has had a legal or beneficial interest or to which Green or any such affiliate has or has had economic exposure, in the case of each of the foregoing clauses (x) and (y) unless such entity is listed on Schedule 1.

(b) The term “Covered Liabilities” means:

(1) all liabilities and obligations under revolving credit facilities, letters of credit and letter of credit facilities, term loan facilities, lines of credit (including without limitation in connection with Trading Contract (as defined below) activities) or uncommitted loan facilities, in each case whether secured or unsecured (whether absolute or contingent, liquidated or unliquidated, intraday/daylight, overnight, short or long term) of the Covered Green Entities in respect of extensions of credit to a Covered Green Entity made prior to the date hereof, made during the Agreement Period (as defined below), made at any time pursuant to a commitment in effect as of the date hereof or made at any time pursuant to a commitment entered into during the Agreement Period (in each case without giving effect to any amendment of such commitment entered into after the Agreement Period);

(2) all liabilities and obligations (whether absolute or contingent, liquidated or unliquidated, intraday/daylight, overnight, short or long term) of the Covered Green Entities that arise from transactions that have been entered into prior to the date hereof and all liabilities and obligations (whether absolute or contingent, liquidated or unliquidated, intraday/daylight, overnight, short or long term) of the Covered Green entities that arise from transactions that are entered into during the Agreement Period, in each case to the extent (and only to the extent) that such liabilities or obligations arise under the terms of: prime brokerage agreements and accounts, securities lending agreements, custodial and carrying agreements, securities accounts and securities contracts (including but not limited to contracts and related accounts for the purchase, sale, loan or borrowing of a security or loan or a group or index of securities or loans, or options with respect thereto or interests therein), commodity contracts (including but not limited to contracts for storage, capacity, transmission, freight, transportation and other ancillary services and products), forward contracts, futures contracts, tolling agreements, energy management agreements, repurchase or reverse repurchase agreements, swap agreements, foreign exchange and currency contracts, options or other derivatives (whether or not such derivative contracts are financially or physically settled), settlement or clearing agreements and arrangements (including but not limited to clearance or settlement for or by the Covered Green Entities and membership or participation in any settlement or clearing system, organization or structure), margin loan agreements, other

contracts or transactions similar to any of the foregoing, any customary brokerage commission with respect to the foregoing, any contractual obligation to provide collateral or margin in respect of any of the foregoing or any obligation under a guaranty of any of the foregoing (all of the foregoing in this subsection 2(b)(2) collectively, whether exchange-traded or over-the-counter, whether pursuant to a master agreement, confirmation or otherwise and whether settled in cash, securities or otherwise, the “Trading Contracts”); and

(3) all obligations to deliver cash, securities or other property then held by an applicable Covered Green Entity to customers pursuant to instructions delivered to the applicable Covered Green Entity [prior to and] during the Agreement Period pursuant to agreements or arrangements that provide for the customary custody or safekeeping of cash, securities or other property;

provided, however, that Covered Liabilities shall not include (i) any liability or obligation of any kind or nature arising from a transaction entered into after the expiration of the Agreement Period (other than to the extent provided in Section 2(b)(i) above with respect to extensions of credit made after the Agreement Period pursuant to commitments entered into prior to or during the Agreement Period), or (ii) any liability or obligation of any kind or nature with respect to the Trading Contracts other than the obligation to pay or perform, as applicable, the express terms thereof, it being understood that liabilities in respect of compliance or noncompliance with law or regulation, any actual or asserted non-contractual breach of duty and any claim relating in any way to asset allocation or investment advice shall all be deemed not to have arisen under the express terms of the applicable Trading Contract.

(c) The term “Agreement Period” means the period commencing on the date hereof and ending on the End Date (as defined below).

(d) The term “End Date” means the date specified by the Lender in a public notice posted on the Lender’s website at <http://www.barclays.com>, which date shall be no earlier than the first to occur of (i) the date that is 120 days following the failure of the Lender to receive the approval of the Lender’s stockholders required by the Acquisition Agreement at a duly held meeting of the Lender’s stockholders convened for the purpose of approving and adopting the Acquisition Agreement, (ii) the date that is 120 days following closing of the transactions contemplated in the Acquisition Agreement and (iii) the date of termination of the Acquisition Agreement. [The Lender agrees that it shall post the End Date on its website at least 72 hours prior to the occurrence of the End Date described in clause (i) above.]

(e) The Term “Debtor Relief Laws” means the Bankruptcy Code of the United States, as it may be amended from time to time, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

3. Except as otherwise expressly provided herein, all notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, telecopied (with confirmation) or delivered by an overnight courier (with confirmation) to the

parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(1) if to Green, to:

[_____
[_____
[_____
Attention: [_____
Facsimile: [_____]

with a copy to:

[_____
[_____
Attention: [_____
Facsimile: [_____]

(2) if to the Lender, to:

[_____
[_____
Attention: [_____
Facsimile: [_____]

with a copy to:

[_____
[_____
Attention: [_____
Facsimile: [_____]

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

5. Subject to compliance with applicable law, this Agreement may be amended by the parties hereto, by action taken or authorized by their respective Boards of Directors (as defined in the Acquisition Agreement), at any time before or after approval of the matters presented in connection with the Acquisition Agreement by the stockholders of Green. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto. For the avoidance of doubt, the termination of the Acquisition Agreement, shall not affect or impair the effectiveness of the guaranty provided therein with respect to the Covered Liabilities of the Covered Green Entities guaranteed thereunder or the obligations of the Guarantor (as defined in the Acquisition Agreement) thereunder with respect thereto.

6. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by

each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

7. Neither this Agreement nor any of the rights, interests or obligations of any party hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other party. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns. Except as otherwise specifically provided herein, this Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

IN WITNESS WHEREOF, the Lender and Green have caused this Agreement to be executed by their respective officers hereunto duly authorized as of the date first above written.

[_____]

By: _____
Name:
Title:

[_____]

By: _____
Name:
Title:

Schedule 1 to Agreement Agreement

Covered Green Entity

[Add List of Covered Entities]

Other trading and operating entities to be mutually agreed by the Lender and Green and to be added to this Schedule by posting to the Lender's website at <http://www.barclays.com>