(d) The Company and each Subsidiary has established and implemented reasonable internal controls and procedures intended to ensure compliance with the Anticorruption Laws, including, but not limited to, an anticorruption compliance program, including a Code of Business Conduct, policies and guidelines that (i) require compliance with the Anticorruption Laws and otherwise prohibit bribes to Government Officials; (ii) restrict gifts, entertainment and travel expenses for Government Officials; (iii) require diligence on certain third parties that may have relations with Government Officials on the Company's behalf; (iv) restrict political and charitable contributions; (v) mandate possible discipline for violations of policy or the Code of Business Conduct; (vi) require periodic training for relevant employees regarding the program; (ix) identify a senior executive or executives responsible for implementation and monitoring of the program; and (x) include procedures for reporting and investigating possible violations of the program.

(e) For purposes of this Agreement, "Government Official" means any (i) officer or employee of a Governmental Entity or instrumentality thereof (including any state-owned or controlled enterprise) or of a public international organization, (ii) political party or official thereof or any candidate for any political office or (iii) any Person acting for or on behalf of any such Governmental Entity or instrumentality thereof.

SECTION 3.18. Insurance. Except as, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect, the Company and its Subsidiaries have all material policies of insurance covering the Company, its Subsidiaries or any of their respective employees, properties or assets, including policies of life, property, fire, workers' compensation, products liability, directors' and officers' liability and other casualty and liability insurance, that is in a form and amount that is customarily carried by Persons conducting business similar to that of the Company and which is adequate (in terms of amount and losses and risks covered) for the operation of its business and ownership of its assets and properties, or as is required under the terms of any contract or agreement. With respect to each such insurance policy, (i) the policy is in full force and effect and all premiums due thereon have been paid, and (ii) neither the Company nor any of its Subsidiaries is in breach or default, and neither the Company nor any of its Subsidiaries has taken any action or failed to take any action which, with notice or the lapse of time or both, would constitute such a breach or default, or permit termination or modification of, any such policy, in each case, except as, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect. There is no material claim pending under any of such policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies and there has been no threatened termination of, material alteration in coverage, or material premium increase with respect to, any such policies, except for such claims, threatened terminations, material alterations and material premium increases which, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.19. Customers and Suppliers. (a) Section 3.19 of the Disclosure Letter contains list that is true and complete as of the date of this Agreement in all material respects of (i) the ten (10) largest customers, original equipment manufacturers, value-added

resellers or distributors of the Company and (ii) the ten (10) largest suppliers of the Company, in order of dollar volume, during (x) the twelve (12) month period ended December 31, 2010 and (y) the six (6) month period ended July 31, 2011, showing in each case the total business in dollars from each such customer, original equipment manufacturer, value-added reseller, distributor or supplier during such period.

(b) Since January 4, 2011 through the date hereof, there has not been any adverse change on the business relationship of the Company or its applicable Subsidiary with any customer or supplier named on Section 3.19 of the Disclosure Letter, except as, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.20. Opinion. Prior to the execution of this Agreement, the Board of Directors of the Company has received an opinion from each of its Company Financial Advisors to the effect that, as of the date thereof and based upon and subject to the matters set forth therein, the Merger Consideration is fair to the stockholders of the Company from a financial point of view. As soon as practicable following the date hereof, an executed copy of each of the aforementioned opinions will be made available to Parent for informational purposes only.

SECTION 3.21. Requisite Stockholder Approval. The only vote of the stockholders of the Company required to adopt the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement and approve the Merger is the affirmative vote of the holders of not less than a majority of the outstanding Shares in favor of the adoption of the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement (the "Requisite Stockholder Approval"). No other vote of the stockholders of the Company is required by Law, the Certificate of Incorporation or Bylaws of the Company or otherwise to adopt the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement and approve and consummate the Merger.

SECTION 3.22. State Takeover Statutes Inapplicable; Rights Agreement. Section 203 of the Corporation Law is inapplicable to and, to the knowledge of the Company, no other Takeover Law is applicable to, the Merger and the other transactions contemplated hereby. As of the date of this Agreement, the Company does not have in effect any "poison pill" or shareholder rights plan.

SECTION 3.23. No Reliance. Any other provision of this Agreement notwithstanding, the Company acknowledges and agrees that (a) neither Parent, Merger Sub nor any Person on behalf of Parent or Merger Sub is making any representations or warranties whatsoever, express or implied, beyond those expressly made by Parent and Merger Sub in this Agreement and (b) the Company has not been induced by, or relied upon, any representations, warranties or statements (written or oral), whether express or implied, made by any Person, that are not expressly set forth in this Agreement.

ARTICLE IV

REPRESENTATIONS AND
WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub represent and warrant to the Company as follows:

SECTION 4.01. Organization. Each of Parent and Merger Sub is a duly organized and validly existing corporation in good standing under the Law of the jurisdiction of its organization and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted, and is qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so organized, validly existing, qualified or in good standing, or to have such power or authority, would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect (as defined below). All of the issued and outstanding capital stock of Merger Sub is owned directly or indirectly by Parent. Merger Sub has outstanding no option, warrant, right, or any other agreement pursuant to which any person other than Parent may acquire any equity security of Merger Sub. Merger Sub has not conducted any business prior to the date of this Agreement and has no, and prior to the Effective Time will have no, assets, liabilities or obligations of any nature other than those incident to its formation and pursuant to this Agreement and the Merger and the other transactions contemplated by this Agreement.

SECTION 4.02. Authority for this Agreement. Each of Parent and Merger Sub has all requisite corporate power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder. The execution and delivery of this Agreement, including the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement, by Parent and Merger Sub and the consummation by Parent and Merger Sub of the transactions contemplated hereby, including the Merger, have been duly and validly authorized by the Board of Directors of Parent and Merger Sub and no other corporate proceedings on the part of Parent or Merger Sub are necessary to authorize this Agreement or to consummate the transactions contemplated hereby or to perform their obligations hereunder, other than, with respect to completion of the Merger, the adoption of the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement by Parent as sole stockholder of Merger Sub and the filing of the Certificate of Merger with the Secretary of State of Delaware. This Agreement has been duly and validly executed and delivered by Parent and Merger Sub and, assuming this Agreement constitutes the legal, valid and binding agreement of the Company, constitutes a legal, valid and binding agreement of each of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with its terms, except that (a) such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, relating to creditors' rights generally and (b) equitable remedies of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

SECTION 4.03. Proxy Statement. None of the information supplied by Parent, Merger Sub or any Representative or Affiliate of Parent or Merger Sub in writing, expressly for inclusion in the Proxy Statement will, at the date of filing with the SEC, at the time the Proxy Statement is mailed or at the time of the Special Meeting, 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. Neither Parent nor Merger Sub makes any representation or warranty with respect to any information supplied by any other Person that is included in the Proxy Statement.

SECTION 4.04. Consents and Approvals; No Violation. Neither the execution, delivery and performance of this Agreement by Parent or Merger Sub, the consummation of the transactions contemplated hereby, nor the compliance by Parent and Merger Sub with any of the provisions hereof will (a) violate or conflict with or result in any breach of any provision of the respective certificates of incorporation or bylaws (or other similar governing documents) of Parent or Merger Sub or any of their respective Subsidiaries, (b) require any material consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, (c) violate, conflict with or result in a breach of any provision of, or require any consent, waiver or approval or result in a default or loss or reduction of any rights (or give rise to any right of termination, cancellation, modification or acceleration, or trigger any requirement or option for additional consideration, or any event that, with the giving of notice, the passage of time or otherwise, would constitute a default or loss or reduction of any rights or give rise to any such right) under any of the terms, conditions or provisions of any note, license, agreement, contract, indenture or other instrument or obligation to which Parent or Merger Sub or any of their respective Subsidiaries is a party or by which Parent or any of its Subsidiaries or any of their respective assets may be bound, (d) result (or, with the giving of notice, the passage of time or otherwise, would result) in the creation or imposition of any Lien on any asset of the Company or any of its Subsidiaries, or (e) violate any Law or Order applicable to Parent or any of its Subsidiaries (including Merger Sub) or by which any of their respective assets are bound, except in the case of each of clauses (a) (with respect to Parent's Subsidiaries), (c), (d) and (e) of this Section 4.04, for such violations, conflicts, breaches, defaults or Liens which, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect or prevent or materially delay or impede the consummation of the transactions contemplated by this Agreement or the ability of Parent to perform its covenants or obligations under this Agreement, (ii) in the case of each of clauses (b), (c), (d) and (e) of this Section 4.04, (A) as may be required under any applicable Antitrust Law, (B) the applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder, (C) the filing and recordation of appropriate merger documents as required by the Corporation Law, (D) the applicable requirements of the New York Stock Exchange or the NASDAQ, and (iii) in the case of each of clauses (b), (c), (d) and (e) of this Section 4.04, for such violations, conflicts, breaches, defaults or Liens as may arise as a result of facts or circumstances relating to the Company or its Affiliates or Laws or contracts binding on the Company and its Subsidiaries, in each case under this clause (ii), that is not known to Parent.

SECTION 4.05. Brokers. The Company will not be responsible for any brokerage, finder's, financial advisor's or other fee or commission payable to any broker, finder or investment banker in connection with the transactions contemplated by this Agreement based upon arrangements made by and on behalf of Parent and Merger Sub.

SECTION 4.06. Sufficient Funds. Parent has available and will have available at the Effective Time, the funds necessary to pay for the Shares and to consummate the Merger and the other transactions described herein.

SECTION 4.07. Litigation. As of the date hereof, there is no Action seeking to prohibit or materially delay the transaction contemplated by the Agreement including the Merger, that is pending or, to the knowledge of Parent, threatened against Parent or any of its Subsidiaries (and neither Parent nor any of its Subsidiaries has received notice of any such Action).

SECTION 4.08. No Vote of Parent Stockholders. Except for the adoption of the agreement of merger (as such term is used in Section 251 of the Corporation Law) contained in this Agreement by Parent as the sole stockholder of Merger Sub, no vote of the stockholders of Parent or any of its affiliates or the holders of any other securities of Parent or any of its affiliates (equity or otherwise), is required by any applicable Law, the certificate of incorporation or bylaws of Parent or any of its affiliates or the applicable rules of the any exchange on which securities of Parent or any of its affiliates are traded, in order for Parent or any of its affiliates to consummate the Merger.

SECTION 4.09. Lack of Ownership of Shares. As of the date hereof, neither Parent nor any of its Subsidiaries owns, directly or indirectly, more than one percent (1%) of the Shares or other Company Securities.

SECTION 4.10. No Reliance. Any other provision of this Agreement notwithstanding, Parent and Merger Sub each acknowledge and agree that (a) neither the Company nor any Person on behalf of the Company is making any representations or warranties whatsoever, express or implied, beyond those expressly made by the Company in this Agreement or in the corresponding Section of the Disclosure Letter and (b) Parent and Merger Sub have not been induced by, or relied upon, any representations, warranties or statements (written or oral), whether express or implied, made by any Person, that are not expressly set forth in this Agreement or in the corresponding Section of the Disclosure Letter. Without limiting the generality of the foregoing, Parent and Merger Sub each acknowledge that no representations or warranties are made with respect to any projections, forecasts, estimates or budgets with respect to the Company and its Subsidiaries that may have been made available to Parent, Merger Sub or any of their Representative; provided, that this sentence is without prejudice to any representations and warranties in this Agreement covering matters that are the underlying causes of any decline in or failure to meet projections, forecasts, estimates or budgets.

ARTICLE V

COVENANTS

SECTION 5.01. Conduct of Business of the Company. Except (a) as expressly permitted or required by this Agreement, (b) as may be agreed in writing by Parent (which consent shall not be unreasonably withheld), or (c) as set forth in Section 5.01 of the Disclosure Letter, during the period from the date of this Agreement to the Effective Time, the Company will conduct and will cause each of its Subsidiaries to conduct its business and operations according to its ordinary and usual course of business consistent with past practice and the Company will use and will cause each of its Subsidiaries to use its reasonable best efforts to preserve intact its business organization, to keep available the services of its current officers or employees who are integral to the operation of their businesses as presently conducted and to

preserve the goodwill of and maintain satisfactory relationships with those Persons having significant business relationships with the Company or any of its Subsidiaries; provided, however, that the Company is not required to pay additional amounts to keep available the services of its officers and employees. Except (i) as expressly permitted or required by this Agreement, (ii) as set forth in the corresponding Section of the Disclosure Letter, or (iii) as may be agreed in writing by Parent (which consent shall not be unreasonably withheld), during the period specified in the preceding sentence, the Company will not and will not permit any of its Subsidiaries to:

(a) issue, deliver, sell, grant options or rights to purchase, pledge, or subject to any Lien (other than Permitted Liens) any Company Securities or Subsidiary Securities, other than (i) Shares issuable upon exercise of the Existing Stock Options, upon the vesting or settlement of Existing Restricted Stock Awards, Existing RSU Awards and Existing DSU Awards outstanding on the date hereof or granted in accordance with the terms of this Agreement and (ii) any such transaction by a wholly owned Subsidiary of the Company which remains a wholly owned Subsidiary after consummation of such transaction;

(b) purchase, redeem or otherwise acquire, directly or indirectly, or amend the terms of any Company Securities or Subsidiary Securities, except for the delivery of Shares by holders of Existing Stock Options, Existing Restricted Stock Awards, Existing RSU Awards or Existing DSU Awards to pay any applicable exercise or purchase price and/or Taxes related to the exercise or vesting of such awards;

(c) split, combine, subdivide or reclassify its capital stock or declare, set aside, make or pay any dividend or distribution (whether in cash, stock or property) on any shares of its capital stock, other than cash dividends paid to the Company or one of its Subsidiaries by a Subsidiary of the Company with regard to its capital stock or other equity interests and other than any such transaction by a wholly owned Subsidiary of the Company which remains a wholly owned Subsidiary after consummation of such transaction;

(d) (i) subject to Section 5.01(v) and Section 5.01(w), except in each case for (A) acquisitions of assets, properties or rights not exceeding $150 million individually, (B) sales, leases, licenses or dispositions of assets, properties or rights with a fair market value not exceeding $100 million individually, (C) any transactions between the Company and a wholly owned Subsidiary of the Company or between wholly owned Subsidiaries of the Company, (D) transactions otherwise permitted under other clauses of this Section 5.01 and (E) sales, leases, licenses or dispositions of inventory and collection of accounts receivable in the ordinary course, make any acquisition or disposition or cause any acquisition or disposition to be made, by means of a merger, consolidation, recapitalization or otherwise, of any business, assets or securities or sell, lease, license or otherwise dispose of assets or securities of the Company or any of its Subsidiaries other than sales of inventory in the ordinary course of business consistent with past practice, provided, that clauses (B), (C) and (E) of this Section 5.01(d)(i) shall not apply to any Intellectual Property Rights (which are the subject of, and governed by, Section 5.01(j), Section 5.01(v) and Section 5.01(w)), (ii) adopt a plan of complete or partial liquidation,

dissolution, recapitalization or restructuring, or (iii) enter into a Material Contract or amend or terminate any Material Contract in any material respect, or grant any release or relinquishment of any material rights under any Material Contract;

(e) incur, create, assume or otherwise become liable or responsible for any long-term debt or short-term debt, except for debt (i) entered into in the ordinary course of business consistent with past practice not to exceed $250 million in the aggregate and (ii) indebtedness for borrowed money among the Company and its wholly owned Subsidiaries or among the Company's wholly owned Subsidiaries;

(f) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person, except wholly owned Subsidiaries of the Company;

(g) make any loans, advances or capital contributions to, or investments in, any other Person (other than wholly owned Subsidiaries of the Company), except in each case for (i) investments or capital contributions not exceeding $15 million individually or $150 million in the aggregate and (ii) pursuant to existing contracts in existence on the date hereof, in accordance with their terms as in effect on the date hereof;

(h) change in any material respect, any financial accounting methods, principles or practices used by it, except as required by GAAP, any applicable generally accepted accounting principles, SEC rule or policy or applicable Law;

(i) subject to Section 5.01(v) and Section 5.01(w), mortgage, pledge, encumber or otherwise subject to any Lien (other than Permitted Liens) or license any material assets (other than Intellectual Property Rights (which are the subject of, and governed by, Section 5.01(j), Section 5.01(v) and Section 5.01(w))), tangible or intangible, except in each case for mortgages, pledges or Liens (i) that are in the ordinary course of business consistent with past practice, (ii) not exceeding $50 million individually or $200 million in the aggregate, (iii) between the Company and a wholly owned Subsidiary of the Company or between wholly owned Subsidiaries of the Company and (iv) pursuant to existing contracts in existence on the date hereof, in accordance with their terms as in effect on the date hereof;

(j) subject to Sections 5.01(v) and Section 5.01(w), license, assign, mortgage, pledge, subject to any Lien, grant a covenant not to sue, or otherwise encumber any Intellectual Property Right, assert any Intellectual Property Right in any new Action or in any counter claim, or amend, renew, terminate, sublicense, assign, or otherwise modify any license or other agreement by the Company or any of its Subsidiaries with respect to any Intellectual Property Right, other than: (i) non-transferable, non-sublicensable, non-exclusive standard licenses entered into in the ordinary course of business, consistent with past practices, to any person for sale or distribution of, or use, solely for a Company Product (including to customers, contract manufacturers, developers and resellers) and (ii) declarations of patents to standard setting bodies under pre-existing commitments to declare such patents;

(k) except in the ordinary course of business, make or change any material Tax election or settle or compromise any material federal, foreign, state or local income Tax liability for an amount materially in excess of amounts reserved (it being agreed and understood that the Company does not make any covenants pursuant to this Section 5.01 relating to Tax matters, except as provided in this Section 5.01(k));

(l) adopt any amendments to its Certificate of Incorporation or Bylaws (or other similar governing documents);

(m) except as required pursuant to the terms and conditions of any Company Employee Plan or International Employee Plan, in each case, as in effect on the date of this Agreement, enter into any new, or amend, terminate or renew any existing, employment, severance, consulting or salary continuation agreements with or for the benefit of any employees with a title of corporate vice president or above, or directors of the Company, or grant any increases in the compensation or benefits to officers, directors or employees (other than normal increases in the ordinary course of business consistent with past practices and that, in the aggregate, do not result in an increase in cash compensation (i.e. base salary and annual target bonus opportunity) expense of the Company in excess of five percent (5%) during any twelve (12) month period);

(n) except as required pursuant to the terms and conditions of any Company Employee Plan or International Employee Plan, in each case, as in effect on the date of this Agreement, grant any stock-related, performance or similar awards or bonuses;

(o) forgive any loans to employees, officers or directors or any of their respective Affiliates or Associates;

(p) [Intentionally omitted.]

(q) other than in the ordinary course of business consistent with past practice, make any deposits or contributions of cash or other property to, or take any other action to, fund or in any other way secure the payment of compensation or benefits under the Company Employee Plans, International Employee Plans or agreements subject to the Company Employee Plans or International Employee Plans, or any other plan, agreement, contract or arrangement of the Company;

(r) (i) terminate the employment of any officer or employee with the title of corporate vice president or above without prior consultation with Parent, except as a direct result of such officer's or employee's (A) willful failure to perform the duties or responsibilities of his employment, (B) engaging in serious misconduct, or (C) being convicted of or entering a plea of guilty to any crime, or (ii) undertake (A) any material reduction in force, (B) any reduction in force that would result in any liability for noncompliance with the notice provisions of WARN Act to the Company or any of its Subsidiaries under WARN Act, or (C) without prior consultant with Parent, any reduction in force that is subject to WARN Act, in each case, in respect of the employees of the Company or its Subsidiaries;

(s) except as required pursuant to the terms and conditions of any Company Employee Plan or International Employee Plan, in each case, as in effect on the date of this Agreement, (i) enter into any material collective bargaining agreement or other material works council or labor union agreement, or (ii) without first using commercially reasonable efforts to disclose to Parent, in reasonable detail, the bargaining strategy of the Company or any Subsidiary of the Company, as applicable, amend or renew any collective bargaining agreement or other works council or labor union agreement in effect as of the date of this Agreement or entered into pursuant to the foregoing clause (i);

(t) except as required pursuant to the terms and conditions of any Company Employee Plan or International Employee Plan, in each case, as in effect on the date of this Agreement, adopt, amend or terminate any Company Employee Plan or International Employee Plan or any other bonus, severance, insurance pension or other employee benefit plan or arrangement, other than in the ordinary course of business consistent with past practice with respect to broad-based plans (other than severance plans) and as would not result in a material increase in benefits or compensation expense to the Company;

(u) incur any material capital expenditure or any obligations, liabilities or indebtedness in respect thereof, except for any capital expenditures not exceeding (i) $50 million individually, (ii) $225 million in the aggregate in 2011 (taking into account any expenditures incurred prior to the date hereof in 2011) and (iii) $250 million per year for 2012 and after;

(v) settle any Action (including any Action relating to this Agreement or the transactions contemplated hereby, and including the Actions set forth in Section 3.10 of the Disclosure Letter), provided that the Company and its Subsidiaries, in any fiscal quarter, may enter into settlements that would not involve any of the following: (i) the sale, mortgage, pledge or other disposition or encumbrance of any Intellectual Property Right or the grant of any license (or similar commitment, such as a covenant not to sue) from the Company or its Subsidiaries (nor any potential obligation to grant the foregoing in the future), (ii) the amendment, renewal, termination, sublicense, assignment, or modification of a license or similar agreement with the Company, or (iii) a commitment to make any payment or provide other consideration where the aggregate value of all consideration in respect of all such settlements entered into in any calendar quarter (or, if there are royalties or other consideration other than fixed cash payments, the reasonable expected value) exceeds the dollar amount set forth on Section 5.01(v) of the Disclosure Letter on a cumulative basis;

(w) pay, discharge or satisfy any claim, liability or obligation (absolute or accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction of liabilities (i) to the extent of the amounts disclosed, reflected or reserved against in the most recent audited financial statements (or the notes thereto) of the Company included in the Company SEC Reports filed prior to the date hereof, or (ii) in the ordinary course of business consistent with past practice and not in violation of this Section 5.01;

(x) take or omit to take any action that would cause any Company Intellectual Property, including with respect to any registrations or applications for registration, to lapse, be abandoned or canceled, or fall into the public domain, other than actions or omissions in the ordinary course of business consistent with past practice and not otherwise in violation of this Section 5.01;

(y) convene any regular or special meeting (or any adjournment thereof) of the stockholders of the Company other than the Special Meeting, except as required by applicable Law (including the New York Stock Exchange) or as required by the Certificate of Incorporation and Bylaws of the Company; or

(z) agree, authorize or commit to any of the foregoing actions or the proposal thereof.

SECTION 5.02. No Solicitation; Company Recommendation. (a) Subject to the terms of this Section 5.02(a), during the period commencing on the date hereof, (i) the Company shall and shall cause each of its Subsidiaries to, and shall instruct each of its and their respective directors, officers, employees, financial advisors, legal counsel, auditors, accountants or other agents (each, a "Representative") to, immediately cease any solicitation, knowing encouragement, discussions or negotiations with any Persons that may be ongoing with respect to an Acquisition Proposal (as defined below) and immediately instruct any Person (and any of such Person's Representatives) in possession of confidential information about the Company that was furnished by or on behalf of the Company in connection with any actual or potential Acquisition Proposal to return or destroy all such information and (ii) the Company and its Subsidiaries shall not, nor shall they authorize or knowingly permit their respective Representatives to, directly or indirectly, (A) solicit, initiate, propose or induce the making, submission or announcement of, or knowingly encourage or assist, an Acquisition Proposal, (B) furnish to any Person (other than Parent, Merger Sub or any designees of Parent or Merger Sub) any non-public information relating to the Company or any of its Subsidiaries in connection with any Acquisition Proposal, or in response to any other proposal or inquiry for a potential transaction that on its face, if the Company entered into such transaction, would breach (in the absence of Parent's consent, unless granted) clauses (d)(i), (d)(iii) (but only with respect to Material Contracts of the type described in clauses (iv) or (v) of Section 3.16(a)) or (j), (v) or (w) of Section 5.01 (the "Specified Transactions"), or afford to any Person access to the business, properties, assets, books, records or other non-public information, or to any personnel of the Company or any of its Subsidiaries (other than Parent, Merger Sub or any designees of Parent or Merger Sub) in connection with any Acquisition Proposal, or in response to any other proposal or inquiry for a potential Specified Transaction (in the absence of Parent's consent, unless granted), (iii) enter into, participate, engage in or continue or renew discussions or negotiations with any Person with respect to any Acquisition Proposal, or (iv) enter into, or authorize the Company or any of its Subsidiaries to enter into, any letter of intent, memorandum of understanding, agreement or understanding (whether written or oral, binding or nonbinding) of any kind providing for, or deliberately intended to facilitate an Acquisition Transaction (as defined below) (other than an Acceptable Confidentiality Agreement (as defined below) entered into in accordance with Section 5.02(b)) (a "Company Acquisition Agreement"). It is understood that any violation of the restrictions set forth in this Section 5.02(a) by any director, officer or a financial advisor of the Company or any of its Subsidiaries shall be deemed to be a

breach of this Section 5.02(a) by the Company. Notwithstanding the foregoing, nothing in this Section 5.02(a) would prevent the Company from taking any of the actions listed above with respect to any proposal or other matter that is not an Acquisition Proposal and does not constitute a breach of Section 5.01.

(b) Notwithstanding anything to the contrary set forth in this Section 5.02 or elsewhere in this Agreement, but subject to the limitations set forth in this Section 5.02(b) and Section 5.02(c), at all times during the period commencing on the date of this Agreement and continuing until the Company's receipt of the Requisite Stockholder Approval, the Board of Directors of the Company may, directly or indirectly through one or more Representatives, (i) participate or engage in discussions or negotiations with any Person that has made a *bona fide* unsolicited written Acquisition Proposal after the date hereof which did not result from a knowing breach of this Section 5.02, and/or (ii) furnish any non-public information relating to the Company or any of its Subsidiaries or afford access to the business, properties, assets, books, records or other non-public information, or to the personnel of the Company or any of its Subsidiaries pursuant to an Acceptable Confidentiality Agreement, to any Person that has made a *bona fide* unsolicited written Acquisition Proposal after the date hereof which did not result from a knowing breach of this Section 5.02; provided, that (A) the Board of Directors of the Company determines in good faith (after consultation with its financial advisor and outside legal counsel) that such Acquisition Proposal either constitutes a Superior Proposal (as defined below) or could reasonably be expected to result in a Superior Proposal and at the time of taking such action, such Acquisition Proposal continues to constitute or remains reasonably expected to result in a Superior Proposal, (B) contemporaneously with furnishing any non-public information to such Person, the Company makes available such non-public information to Parent (to the extent such information has not been previously made available to Parent; provided, that nothing in this Agreement shall require the Company or any of its Subsidiaries to make available any information that would cause a violation of any contract to which the Company or any of its Subsidiaries is a party as in effect on the date hereof or any contract entered into by the Company or any of its Subsidiaries in compliance with Section 5.01 (in either case, an "Allowed Contract", which term shall not include any contract entered into compliance with Section 5.01 if such term is included in such contract for the purpose of creating violations of such type), would cause a loss of privilege to the Company or any of its Subsidiaries or would constitute a violation of applicable Laws, it being understood that the Company shall use reasonable best efforts to enter into an additional joint defense arrangement if necessary to avoid the application of the foregoing restrictions on disclosure and shall use reasonable best efforts to avoid entry into any arrangement that would cause such restrictions to apply to disclosures to Parent), (C) upon receipt of such Acquisition Proposal, the Company promptly (and in any event within twenty-four (24) hours) provides Parent (1) a copy of any such Acquisition Proposal made in writing or (2) a summary of the material terms of any such Acquisition Proposal not made in writing, together with information known to the Company relating to the identity of the Person making such Acquisition Proposal including if it is not an issuer with equity securities registered with the SEC, its direct and indirect investors, and (D) the Company gives Parent prior written notice (which prior written notice shall be given, to the extent practicable, at least twelve (12) hours in advance), of the Company's intention to participate or engage in discussions or negotiations with, or furnish non public-information or afford access to, such Person.

(c) From and after the date hereof, the Company shall keep Parent reasonably informed of any material developments, discussions or negotiations regarding any Acquisition Proposal received by the Company and, upon the request of Parent, shall reasonably promptly apprise Parent of the status of such Acquisition Proposal. The Company agrees that it and its Subsidiaries shall not enter into any agreement with any Person subsequent to the date hereof which prohibits the Company from complying with its obligations under this Section 5.02.

(d) Subject to Section 5.02(e), Section 5.02(f), Section 5.02(g) and Section 5.02(h), the Board of Directors of the Company shall not (i) fail to include the Company Board Recommendation in the Proxy Statement, (ii) withhold, withdraw, amend, change, qualify or modify in a manner adverse to Parent, or authorize or publicly propose to withhold, withdraw, amend, change, qualify or modify in a manner adverse to Parent, the Company Board Recommendation, (iii) approve, adopt or recommend to the stockholders of the Company any Acquisition Proposal, or authorize or publicly propose to approve, adopt or recommend to the stockholders of the Company any Acquisition Proposal, or (iv) make any public statement regarding any Acquisition Proposal or tender or exchange offer that fails to include a reaffirmation of the Company Board Recommendation (other than a "stop, look and listen" communication by the Board of Directors of the Company pursuant to Rule 14d-9(f) of the Exchange Act in connection with a tender offer or exchange offer provided such statement includes a reaffirmation of the Company Board Recommendation) (each, a "Recommendation Change").

(e) Notwithstanding the foregoing or anything else to the contrary provided herein, at any time prior to the receipt of the Requisite Stockholder Approval, subject to compliance with Section 5.02(g), the Board of Directors of the Company may effect a Recommendation Change if (i) (A) an event, fact, circumstance, development or occurrence (an "Intervening Event") that affects the business, assets or operations of the Company that is unknown to the Board of Directors of the Company as of the date of this Agreement becomes known to the Board of Directors of the Company prior to obtaining the Requisite Stockholder Approval and (B) the Board of Directors of the Company has concluded in good faith (after consultation with its financial advisor and outside legal counsel) that the failure of the Board of Directors to effect a Recommendation Change would be reasonably likely to be inconsistent with the directors' exercise of their fiduciary obligations to the Company's stockholders under applicable Law or (ii) (A) the Board of Directors of the Company has concluded in good faith (after consultation with its financial advisors and outside legal counsel) that an Acquisition Proposal constitutes a Superior Proposal and (B) the Board of Directors of the Company has concluded in good faith (after consultation with its financial advisor and outside legal counsel) that the failure of the Board of Directors to effect a Recommendation Change would be reasonably likely to be inconsistent with the directors' exercise of their fiduciary obligations to the Company's stockholders under applicable Law.

(f) Notwithstanding the foregoing or anything else to the contrary provided herein, at any time prior to the receipt of the Requisite Stockholder Approval, subject to compliance with Section 5.02(g) and Section 7.01(g), the Company may terminate this Agreement pursuant to Section 7.01(g) in order to enter into a definitive, written Company Acquisition Agreement for a Superior Proposal if the Board of Directors of the Company has received an Acquisition Proposal that it determines in good faith (after consultation with its

financial advisors and outside legal counsel) constitutes a Superior Proposal and the failure to take such action would be reasonably likely to be inconsistent with the directors' exercise of their fiduciary obligations to the Company's stockholders under applicable Law; provided, that the Company has not committed a Willful and Intentional Breach (as defined below) of this Section 5.02 in connection with such Acquisition Proposal.

(g) Prior to taking any action permitted by Section 5.02(e) or Section 5.02(f), (i) the Company shall give Parent at least three (3) Business Days' prior written notice of its intention to take such action (which notice shall specify the reasons for any Recommendation Change or the material terms and conditions of any such Superior Proposal, as applicable) and, in the case of an Intervening Event involving a proposed transaction or in the case of a Superior Proposal, no later than the time of such notice, provide Parent an unredacted copy of the relevant proposed transaction agreement and other material documents contemplated with or by the party making such proposal or Superior Proposal, (ii) if requested by Parent, the Company and its Representatives shall negotiate in good faith with Parent during such notice period to enable Parent to propose changes to the terms of this Agreement intended to eliminate the need for the Board of Directors of the Company to effect a Recommendation Change or to cause such Superior Proposal to no longer constitute a Superior Proposal, (iii) the Board of Directors of the Company shall have considered in good faith (after consultation with its financial advisors and outside legal counsel) any changes to this Agreement proposed in writing by Parent and determined that such Intervening Event would continue to require a Recommendation Change if such changes were to be given effect or that the Superior Proposal would continue to constitute a Superior Proposal if such changes were to be given effect, as applicable, and (iv) in the event of any change to the material facts and circumstances relating to such Intervening Event or in any change to the form or amount of consideration or any material terms of the transaction in the case of an Intervening Event involving a potential transaction any change to any of the financial terms (including the form or amount of consideration) or any material terms of such Superior Proposal, the Company shall, in each case, have delivered to Parent an additional notice and a summary of the relevant proposed transaction agreement and other material documents and a new three (3) Business Day notice period shall commence during which time this Section 5.02(g) shall apply.

(h) Nothing set forth in Section 5.02 or elsewhere in this Agreement shall prohibit the Board of Directors of the Company from (i) taking and disclosing to the Company's stockholders a position contemplated by Rule 14e-2(a) under the Exchange Act or complying with the provisions of Rule 14d-9 promulgated under the Exchange Act, or (ii) making any disclosure to the Company's stockholders that the Board of Directors of the Company determines to make in good faith (after consultation with its outside legal counsel) in order to fulfill its fiduciary duties or satisfy applicable state or federal securities Laws; provided, that any such position or disclosure under clause (i) or (ii) will be deemed to be a Recommendation Change unless such position or disclosure is either a "stop, look and listen" communication by the Board of Directors of the Company pursuant to Rule 14d-9(f) of the Exchange Act in connection with a tender offer or exchange offer, or such position or disclosure includes a reaffirmation of the Company Board Recommendation.

(i) For purposes of this Agreement:

(i) "Acceptable Confidentiality Agreement" shall mean any confidentiality agreement entered into after the date of this Agreement that contains provisions restricting disclosure and use that are no less favorable in the aggregate to the Company than those in the Mutual Confidentiality and Non-Disclosure Agreement, dated as of July 1, 2011, as amended on August 11, 2011, between the Company and Parent (as it may be further amended, the "Confidentiality Agreement").

(ii) "Acquisition Proposal" shall mean any offer or proposal (other than an offer or proposal by Parent or Merger Sub), whether or not in writing, to engage in an Acquisition Transaction from any Person or group (as such term is used in Section 13(d) of the Exchange Act).

(iii) "Acquisition Transaction" shall mean (A) any transaction or series of related transactions (other than the transactions contemplated by this Agreement) with one or more third parties involving (1) the purchase or other acquisition from the Company (whether by way of a merger, share exchange, consolidation, business combination or similar transaction) by any Person or "group" (as defined in or under Section 13(d) of the Exchange Act), directly or indirectly, of twenty percent (20%) or more of the total outstanding Shares, (2) any tender offer or exchange offer that, if consummated, would result in any Person or "group" (as defined in or under Section 13(d) of the Exchange Act) beneficially owning twenty percent (20%) or more of the total outstanding Shares, (3) any merger, consolidation, business combination or similar transaction involving the Company or any of its Subsidiaries, or (4) any sale, acquisition, transfer or disposition of assets (including equity of Subsidiaries of the Company) that constitute twenty percent (20%) or more of the consolidated non- "cash or cash equivalent" assets of the Company and its Subsidiaries, or (B) any liquidation or dissolution of the Company.

(iv) "Superior Proposal" shall mean a *bona fide* written Acquisition Proposal to acquire, directly or indirectly, pursuant to a tender offer, exchange offer, merger, consolidation or other business combination or similar acquisition transaction, (A) all or substantially all of the non-"cash or cash equivalent" assets of the Company or (B) more than fifty percent (50%) of the outstanding Shares, with respect to which the Board of Directors of the Company shall have determined in good faith (after consultation with its financial advisor and outside legal counsel) that the Acquisition Transaction contemplated by such Acquisition Proposal (x) would be more favorable to the stockholders of the Company (solely in their capacity as such) than the Merger, after taking into account all the terms and conditions of such proposal (including the financial aspects of such proposal, the form of consideration, the likelihood, ability to finance, conditionality and timing of consummation of such proposal, any break-up fees, expense reimbursement provisions and any other aspects of the transaction described in such proposal, including the identity of the Person or "group" (as defined in or under Section 13(d) of the Exchange Act) making such proposal) and this Agreement (including any changes to the terms of this Agreement proposed in writing by Parent to the Company in response to such proposal or otherwise) and (y) would not be subject to any due diligence or financing condition.

SECTION 5.03. Access to Information. (a) From and after the date of this Agreement, subject to the requirements of applicable Law, the Company will (i) give Parent and Merger Sub and their authorized Representatives reasonable access (during regular business hours upon reasonable notice) to all employees, plants, offices, warehouses and other facilities and to all books, contracts, commitments and records (including Tax returns) of the Company and its Subsidiaries and instruct the Company's and its Subsidiaries' independent public accountants to provide access to their work papers and such other information as Parent or Merger Sub may reasonably request, (ii) permit Parent and Merger Sub to make such inspections as they may reasonably require, and (iii) cause its officers and those of its Subsidiaries to furnish Parent and Merger Sub with such financial and operating data and other information with respect to the business, properties and personnel of the Company and its Subsidiaries as Parent or Merger Sub may from time to time reasonably request; provided, that nothing herein shall obligate the Company to incur costs and time to produce such information outside of the ordinary course of its business; provided, further, that nothing in this Agreement shall require the Company or any of its Subsidiaries to permit any inspection or disclose any information to Parent that would cause a violation of any Allowed Contract, would cause a risk of a loss of privilege to the Company or any of its Subsidiaries, would constitute a violation of applicable Laws, that is competitively sensitive information or to permit the other party or any of its Representatives to perform any onsite procedure with respect to any of its or its Subsidiaries' properties; provided, further, that the Company shall take any and all reasonable action necessary to permit such disclosure without such loss of privilege or violation of agreement or Law. Parent hereby agrees that it shall treat any such information in accordance with the Confidentiality Agreement. Notwithstanding any provision of this Agreement to the contrary, the Company shall not be obligated to grant any access or make any disclosure in violation of applicable Laws or regulations or if it would unreasonably interfere with the conduct of the Company's business. The Confidentiality Agreement shall survive any termination of this Agreement.

(b) Information obtained by Parent or Merger Sub pursuant to Section 5.03(a) shall not prejudice any of Parent's rights or remedies.

SECTION 5.04. Reasonable Best Efforts. (a) Subject to the terms and conditions of this Agreement and Section 5.04(b) and Section 5.04(d) below and except with regard to matters related to the Antitrust Laws and clearances and litigation thereunder, each of the parties hereto shall cooperate with the other parties and use (and shall cause their respective Subsidiaries to use) their respective reasonable best efforts to promptly (i) take, or cause to be taken, all actions, and do, or cause to be done, and assist and cooperate with the other parties in doing, all things necessary, proper or advisable to cause the conditions to Closing to be satisfied as promptly as reasonably practicable and to consummate and make effective, in the most expeditious manner reasonably practicable, the transactions described herein, including preparing and filing promptly and fully all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents, (ii) obtain all approvals, consents, registrations, waivers, permits, authorizations, orders and other confirmations from any Governmental Entity or third party necessary, proper or advisable to consummate the transactions described herein, (iii) execute and deliver any

additional instruments necessary to consummate the transaction described herein, (iv) inform the other parties promptly of any substantive oral or written communications or meetings with Former Parent or its Representatives regarding the Merger and provide the other parties with an opportunity to attend and participate in such meetings, (v) furnish information requested by Former Parent in connection with the Company's obligations under the Tax Sharing Agreement, and (vi) defend or contest any claim, suit, action or other proceeding brought by a third party that would otherwise prevent or materially impede, interfere with, hinder or delay the consummation of the transactions described herein.

(b) Each of the Company and Parent shall (i) make, as promptly as reasonably practicable, all necessary filings and notifications and other submissions with respect to this Agreement and the transactions contemplated hereby under the Antitrust Laws and, in any event, file the Notification and Report Form under the HSR Act no more than ten (10) Business Days after the date hereof and (ii) subject to Section 5.04(d), use its reasonable best efforts to obtain termination or expiration of any waiting periods under the HSR Act and such other approvals, consents and clearances as may be necessary, proper or advisable to effectuate the Merger under the Antitrust Laws and to remove any court or regulatory orders under the Antitrust Laws impeding the ability to consummate the Merger by the Outside Date (as defined below).

(c) Each of the Company, Parent and Merger Sub shall use reasonable best efforts to certify compliance with any "second request" for additional information or documentary material from the Department of Justice or the Federal Trade Commission pursuant to the HSR Act within four (4) months after receipt of such second request and to produce documents on a rolling basis.

(d) Notwithstanding anything in this Agreement to the contrary:

(i) Subject to Section 5.04(b), Parent shall have the unilateral right to determine whether or not the parties will litigate with any Governmental Entities to oppose any enforcement action or remove any court or regulatory orders impeding the ability to consummate the Merger.

(ii) Parent shall, on behalf of the parties, control and lead all communications and strategy relating to the Antitrust Laws and litigation matters relating to the Antitrust Laws (provided that the Company is not prohibited from complying with applicable Law), subject to good faith consultations with the Company and the inclusion of the Company at meetings with Governmental Entities with respect to any discussion related to the Merger under the Antitrust Laws.

(iii) Without limiting, and subject to, Section 5.04(b)(ii) the parties agree to use good faith efforts to (A) give each other reasonable advance notice of all meetings with any Governmental Entity relating to the Antitrust Laws, (B) to the extent not prohibited by such Governmental Entity, not participate independently in any such meeting without first giving the other party (or the other party's outside counsel) an opportunity to attend and participate in such meeting, (C) to the extent practicable, give the other party reasonable advance notice of all oral communications with any Governmental Entity relating to Antitrust Laws, (D) if any Governmental Entity initiates

an oral communication regarding the Antitrust Laws, promptly notify the other party of the substance of such communication, (E) provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any analyses, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party hereto relating to proceedings under the Antitrust Laws) with a Governmental Entity regarding the Antitrust Laws and (F) promptly provide each other with copies of all written communications to or from any Governmental Entity relating to the Antitrust Laws. The parties may, as they deem advisable and necessary, designate any competitively sensitive materials provided to the other under this Section 5.04 as "outside counsel only." Such materials and the information contained therein shall be given only to outside counsel and previously-agreed outside economic consultants of the recipient and will not be disclosed by such outside counsel or outside economic consultants to employees, officers, or directors of the recipient without the advance written consent of the party providing such materials.

SECTION 5.05. Indemnification and Insurance. (a) Parent and Merger Sub shall cause the surviving corporation to agree that all rights to exculpation and indemnification for acts or omissions occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including any matters arising in connection with the transactions contemplated by this Agreement), now existing in favor of the current or former director or officers (the "Indemnified Parties") or employees, as the case may be of the Company or its Subsidiaries as provided in their respective certificates of incorporation or by-laws or in any agreement shall survive the Merger and shall continue in full force and effect. For a period of six (6) years following the Effective Time (the "Post-Closing Indemnification Period"), Parent and the Surviving Corporation or its successor shall cause the Surviving Corporation's or its successor's certificate of incorporation and bylaws to contain provisions with respect to indemnification and exculpation of, and advancement of expenses to, the Indemnified Parties that are at least as favorable as the indemnification, exculpation and advancement of expenses provisions contained in the Certificate of Incorporation and Bylaws for the benefit of officers and directors of the Company as of the date hereof, and during the Post-Closing Indemnification Period, such provisions shall not, unless required by applicable Law, be amended, repealed or otherwise modified in any manner that would adversely affect the rights thereunder of the Indemnified Parties, and maintain any indemnification agreements of the Company and its Subsidiaries with any of their respective directors, officers and employees existing as on the date of this Agreement; provided, that in the event that due to dissolution of the Surviving Corporation or divestiture of its assets, Parent is the successor, the Indemnified Parties shall have the benefit of the provisions with respect to indemnification and exculpation of, and advancement of expenses to the Indemnified Parties in Parent's certificate of incorporation and bylaws through the Post-Closing Indemnification Period.

(b) For a period of six (6) years after the Effective Time, Parent will cause the Surviving Corporation or its successor to maintain in effect the Company's current directors' and officers' liability insurance covering those persons who are currently covered by the Company's

directors' and officers' liability insurance policy (copies of which have been delivered by the Company to Parent and its representatives prior to the date hereof) for acts or omissions occurring prior to the Effective Time on terms comparable to those of such policy in effect on the date hereof; provided, that (i) the Company may, at its election, substitute therefor a single premium tail policy with respect to such directors' and officers' liability insurance with policy limits, terms and conditions at least as favorable to the directors and officers covered under such insurance policy as the limits, terms and conditions in the existing policies of the Company; or (ii) if the Company does not elect to substitute as provided in clause (i) above, then Parent may (A) substitute therefor policies of Parent, from an insurance carrier with the same or better credit rating as the Company's current insurance carrier, containing terms with respect to coverage (including as coverage relates to deductibles and exclusions) and amounts no less favorable to such directors and officers or (B) request that the Company obtain (and, if so requested, the Company shall obtain) such extended reporting period coverage under its existing insurance programs (to be effective as of the Effective Time); provided, further, that in connection with this Section 5.05(b), neither the Company nor Parent shall pay a one-time premium (in connection with a single premium tail policy described above) in excess of the amount set forth in Section 5.05(b) of the Disclosure Letter or be obligated to pay annual premiums (in connection with any other directors and officers insurance policy described above) in excess of the annual premiums set forth in Section 5.05(b) of the Disclosure Letter. It is understood and agreed that in the event such coverage cannot be obtained for such amount or less, then the Company shall obtain the maximum amount of coverage as may be obtained for such amount.

(c) The rights of each Indemnified Party under this Section 5.05 shall survive consummation of the Merger and are intended to benefit, and shall be enforceable by, each Indemnified Party, his or her heirs and his or her personal representatives, successors or assigns and in addition to, and not in substitution for, any other rights to indemnification or contribution that any such person may have by contract or otherwise. Parent shall pay all reasonable expenses, including reasonable attorneys' fees, that may be incurred by any Indemnified Party in enforcing the indemnity and other obligations provided in this Section 5.05.

(d) The rights of the Indemnified Parties and their heirs and legal representatives under this Section 5.05 shall be in addition to any rights such Indemnified Parties may have under the Certificate of Incorporation or Bylaws of the Company or any of its Subsidiaries, any agreements between such persons and the Company or any of its Subsidiaries, or any applicable Laws, or under any insurance policies.

(e) In the event that the Surviving Corporation or any of its successors or assigns (A) consolidates with or merges into any other Persons, or (B) transfers fifty percent (50%) or more of its properties or assets to any Person, then and in each case, subject to the proviso in Section 5.05(a), proper provision shall be made so the applicable successors and assigns or transferees assume the obligations set forth in this Section 5.05.

(f) Notwithstanding anything herein to the contrary, (i) the obligations of Parent and the Surviving Corporation or its successor shall be subject to any limitation imposed by applicable Law (including any limitation on the Company's ability to indemnify its own directors and officers) and (ii) Parent shall have no obligation to maintain the existence of the Surviving Corporation for any specified period following the Effective Time. The provisions of this Section 5.05 shall survive the consummation of the Merger.

SECTION 5.06. Employee Matters. (a) Prior to the Effective Time, except as set forth below, the Company will, and will cause its Subsidiaries to, and, from and after the Effective Time, Parent will, and will cause the Surviving Corporation to, honor, in accordance with their terms, all existing Company Employee Plans and International Employee Plans.

(b) For a one (1) year period following the Effective Time, Parent shall provide, or shall cause to be provided, to each active employee of the Company and its Subsidiaries (the "Company Employees") (i) base compensation and bonus opportunities that, in each case, are no less favorable than were provided to the Company Employee immediately prior to the Effective Time, and (ii) other employee benefits (excluding equity or equity-based awards) that are substantially comparable, in the aggregate, to the employee benefits (excluding equity or equity-based awards) that were provided to the Company Employee immediately prior to the Effective Time; provided, however, that nothing in this Agreement shall prohibit the Parent or the Surviving Corporation from terminating the employment of any Company Employee.

(c) Parent shall use its commercially reasonable efforts to ensure that, as of the Closing Date, each Company Employee receives credit for service with the Company (or predecessor employers to the extent the Company provides such past service credit under the Company Employee Plans and the International Employee Plans) for purposes of eligibility to participate, vesting, vacation entitlement and level of severance benefits under each of the comparable employee benefit plans, programs and policies of Parent, the Surviving Corporation or the relevant Subsidiary, as applicable ("Parent Plans"), in which such Company Employee becomes a participant; provided, that no such service recognition shall result in any duplication of benefits with respect to the same period of service. In addition, and without limiting the generality of the foregoing, to the extent permitted by applicable Law, each Company Employee shall be immediately eligible to participate, without any waiting time, in any and all Parent Plans in which such Company Employee becomes entitled to participate to the extent coverage under such Parent Plan is comparable to a Company Employee Plan or International Employee Plan in which such Company Employee participated immediately before the Effective Time. To the extent permitted by applicable Law, as of the Closing Date, Parent shall, or shall cause the Surviving Corporation or relevant Subsidiary to, credit to Company Employees the amount of vacation time that such employees had accrued under any applicable Company Employee Plan or International Employee Plan as of the Closing Date. With respect to each health or welfare benefit plan maintained by Parent for the benefit of any Company Employees, the Surviving Corporation or the relevant Subsidiary and Parent shall use commercially reasonable efforts (i) to cause all pre-existing condition exclusions and actively-at-work requirements of such Parent Plan to be waived for each Company Employee and his or her covered dependents, unless and to the extent the individual, immediately prior to entry in the Parent Plans, was subject to such conditions under the comparable Company Employee Plan or International Employee Plan, as applicable, and (ii) to cause each Company Employee to be given credit under such plan for all amounts paid by such Company Employee under any similar Company Employee Plan or International Employee Plan for the plan year that includes the Closing Date for purposes of applying deductibles, co-payments and out-of-pocket maximums as though such amounts had been paid in accordance with the terms and conditions of the applicable plan maintained by Parent, the Surviving Corporation or the relevant Subsidiary, as applicable, for the plan year in which the Closing Date occurs.