KLEVER MARKETING INC
Form PRE 14C
June 07, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14C

Information Statement Pursuant to Section 14(c) the Securities Exchange Act of 1934

Check the appropriate box:

x Preliminary Information Statement

¨ Confidential, for use of the Commission only (as permitted by Rule 14c-5(d)(2))

o Definitive Information Statement

KLEVER MARKETING, INC.

(Name of Registrant As Specified In Charter)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

¨ Fee computed on table below per Exchange Act Rules 14c-5(g) and 0-11.

1) Title of each class of securities to which transaction applies:

2) Aggregate number of securities to which transaction applies:

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0 -11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

¨ Fee paid previously with preliminary materials.

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No:

3) Filing Party:

4) Date Filed:

KLEVER MARKETING, INC.

1100 East 6600 South, Suite 305

Salt Lake City, UT 84121

June __, 2018

NOTICE OF SHAREHOLDER ACTION BY WRITTEN CONSENT

Dear Shareholder:

This notice and the accompanying Information Statement are being distributed to the holders of record (the "Shareholders") of the voting capital stock (preferred and common) of Klever Marketing, Inc., a Delaware corporation (the "Company"), as of the close of business on June __, 2018 (the "Record Date"), in accordance with Rule 14c-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the notice requirements of the Delaware General Corporation Law (the "DCL"). The purpose of this notice and the accompanying Information Statement is to notify the Shareholders of actions approved by our Board of Directors (the "Board") and resolutions entered by written consent in lieu of a meeting by the holders of a majority of the voting stock of our outstanding capital stock as of the Record Date (the "Written Consent").

The Written Consent approved a prospective amendment to the Company's Articles of Incorporation to reverse split all our common stock on a 6:1 ratio from approximately 89,680,567 to 15,000,000 common shares ($0.01 par value). The effective date of this Amendment will be 20 days after the mailing of the Information Statement to our shareholders.

The Written Consent is the only shareholder approval required to effect the reverse split under the DCL, our Articles of Incorporation, as amended, and our Bylaws. No consent or proxies are being requested from our shareholders, and our Board of Directors (the "Board") is not soliciting your consent or proxy in connection with the Corporate Actions. The Corporate Actions, as approved by the Written Consent, will not become effective until 20 calendar days after the accompanying Information Statement is first mailed or otherwise delivered to the Shareholders. We expect to mail the accompanying Information Statement to the Shareholders on or about June __, 2018.

Important Notice Regarding the Availability of Information Statement Materials in Connection with this Schedule 14C: We will furnish a copy of this Notice and Information Statement, without charge, to any shareholder upon written request to the address set forth above, Attention: Corporate Secretary. The Information Statement is also available on our website at www.klevermarketing.com.

WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY.

Sincerely,

/s/ Paul G. Begum
Paul G. Begum,
Chief Executive Officer and Director

KLEVER MARKETING, INC.

1100 East 6600 South, Suite 305

Salt Lake City, UT 84121

_____

INFORMATION STATEMENT

_____

WE ARE NOT ASKING YOU FOR A PROXY, AND YOU ARE REQUESTED NOT TO SEND US A PROXY.

INTRODUCTION

This Information Statement advises the shareholders of Klever Marketing, Inc. (the "Company," "we," "our" or "us") of the following:

The "Majority Shareholders" executed and delivered to us a written consent in lieu of a meeting (the "Written Consent") approving the Reverse Split on April 27, 2018.

On May 10, 2018 (the "Filing Date"), our Board of Directors (the "Board") filed the Article Amendments for a 6:1 reverse split in Delaware for a record date of May 28, 2018 having obtained majority shareholder consent. The Company will not, however, consider such filed Articles of Amendment effective until the required Effective Date of this Information Statement, twenty days after the filing and mailing of the definitive Information Statement, as approved, to our shareholders. At the Effective Date, the appropriate Amended Articles will be filed amending the Record Date for the reverse split.

The Company will most likely be required to file subsequent notices with the Securities and Exchange Commission (SEC) and provide required notices concerning subsequent events arising from the Merger as described below. This

Information Statement is limited to a general discussion of the merger terms and events and a detailed explanation of the reverse stock split.

On April 27, 2018, we entered into a Merger Agreement with DarkPulse Technologies, Inc. ("DarkPulse Technologies"), to merge a wholly owned subsidiary of the Company with and into DarkPulse Technologies, with DarkPulse Technologies being the surviving entity of that Merger and the surviving subsidiary of the Company. As a condition to closing the Merger, we are required to effect certain Article Amendments as described above. For a further discussion of this Merger, see "Merger and Potential Change of Control," below.

Section 228 of the DCL provides that the written consent of the holders of outstanding shares of voting capital stock having not less than the minimum number of votes which would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted can approve an action in lieu of conducting a special shareholders' meeting convened for the specific purpose of such action. The DCL, however, requires that in the event an action is approved by written consent, a company must provide notice of the taking of any corporate action without a meeting to the shareholders of record who have not consented in writing to such action and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to a Company.

Under Delaware law, shareholders are not entitled to dissenters' rights with respect to the above Articles of Amendment related to the Reverse Stock Split.

In accordance with the foregoing, we intend to mail a notice of the Written Consent and this Information Statement on or about June __, 2018. This Information Statement contains a brief summary of the material aspects of the actions approved by the Board and the Majority Shareholders, which hold a majority of the voting capital stock of the Company.

Voting Securities and Principal Holders Thereof Voting in Favor of Corporate Actions

As of the date the Majority Shareholder Consent Resolution was enacted, April 27, 2018, there were issued and outstanding 61,332,567 common shares of the corporation entitled to one vote per share; also as of that date there were issued and outstanding 509,374 preferred shares which were entitled to cast 29,961,983 votes or a total vote of 91,284,500. All of the preferred shares were held of record by a shareholder known as PSF, Inc. which remains controlled by the existing president of Klever Marketing, Mr. Paul G. Begum. The Majority Shareholder Consent Resolution was then executed and votes were cast in favor of the Merger Terms outlined in such Consent Resolutions constituting 48,096,891 voting shares of stock for a total of approx. 52.689 % of the authorized voting shares of the corporation as of April 27, 2018. A copy of the Majority Shareholder Consent Resolution stating the individual shares cast in favor of each provision of the Merger requiring shareholder approval is available upon request of any shareholder.

The following table sets forth the names of the Majority Shareholders, the number of shares of Common Stock and Preferred Stock held by each, the total number of votes that the Majority Shareholders voted in favor of the proposed Articles of Amendment, as well as the percentage of the issued and outstanding voting equity of the Company voted in favor thereof:

Name of Majority Shareholder	**Number of Shares of Common Stock Number of Shares of Common Stock Held**	**Number of [(1)] Preferred Stock Votes**	**Number of Voting Shares by Such Shareholder**	**Number of votes in Favor of the Merger Terms**	**Percentage Total Voting Shares that Voted in Favor of the Merger Terms**
Paul G. Begum, CEO & Director	77,142	0	77,142	77,142	0.085%
Robert A. Campbell, Director	4,007,048	0	4,007,048	4,007,048	4.390%
Pamela K. Kendall	2,607,142	0	2,607,142	2,607,142	2.856%
PSF, Inc. [(2)]	9,075,195	29,961,983	39,037,178	39,037,178	42.764%
Tree of Stars Corp. [(3)]	2,368,381	0	2,368,381	2,368,381	2.595%
Totals	**18,134,908**	**29,961,983**	**48,096,891**	**48,096,891**	**52.689%**

(1) All issued of Preferred Stock is held by PSF, Inc., The total Preferred Shares issued and outstanding are 509,374, but each preferred share is entitled to vote in excess of one vote per share. As a result, the total votes cast by PSF by its preferred shares is equal to 29,961,983 common share votes.

(2&3) Both PSF and Tree of Stars are majority owned and managed entities by Mr. Paul Begum

REASONS FOR THE REVERSE STOCK SPLIT

The Board of Directors and the Majority Shareholders of the Company have approved the reverse split as necessary to complete the merger of a wholly owned subsidiary of the Company with and into DarkPulse Technologies, with DarkPulse Technologies being the surviving entity of that merger and the operating subsidiary of the Company. For a more general discussion of this Merger, see the following section on "Merger and Potential Change of Control."

The board of directors and majority stockholders of the Company have approved a reverse split of all of the outstanding shares of the Company's stock at the exchange rate of 6:1, meaning that for every 6 shares presently held by common shareholders prior to the merger closing, those shareholders will receive one common share of the surviving company stock.

Related to this reverse split transaction, but not part of the actual reverse split, is the action of the board of directors, based upon consent of the shareholders, to cancel every share of preferred stock of the Company and to terminate all stock rights (such as warrants and options and similar stock interest), except for the survival of four convertible two year notes aggregating $150,000. As a result of the reverse split and related cancelation of preferred shares and rights there will be issued and outstanding at the conclusion of the merger transaction 100,000,000 reverse split common shares; 85,000,000 will have been issued to the new shareholders of the Company incident to the merger transaction and 15,000,000 will be held by prior shareholders of the company pre-merger.

The purpose of the reverse split was to negotiate and arrive at a fair and equitable ownership percentage to the new management of the Company which will become effective if and when the merger closes. Additionally, it was deemed necessary to reduce the total number of issued and outstanding shares to afford the new management various financing alternatives in the issuance of new stock for capital and other financing purposes of the Company going forward. The board anticipates, but cannot warrant, an increase in the market price of the common stock as a result of the reverse stock split which may enhance the Company's capacity and potential to raise additional future financing.

Upon the effectiveness of the Reverse Stock Split, each common stock shareholder will beneficially own a reduced number of the shares of common stock. The Reverse Stock Split will affect all of the company's present shareholders uniformly and will not affect any common shareholders percent ownership interest, except to the extent that subsequent to the closing of the Merger additional shares may be issued to the new management group. Also, it is anticipated that subsequent financing may further reduce the percentage of ownership in the company.

Each shareholder affected by the reverse split may tender stock certificates at their own cost and election, in the event of the close of the merger, to the Company's transfer agent in exchange for reverse split certificates. Shares held in brokerage accounts, or other nominee accounts, will automatically be converted in the event the merger is closed.

MERGER AND POTENTIAL CHANGE OF CONTROL

On April 27, 2018, the Company (Klever Marketing, Inc., a Delaware corporation), DarkPulse Technologies, Inc. ("DarkPulse Technologies," or the "Target Company"), and DPTH Corporation, a wholly owned subsidiary of the Company recently incorporated in the State of Utah (the "Merger Subsidiary") entered into an Agreement and Plan of Merger, a copy of which is attached hereto as Exhibit A (the "Merger Agreement"). Under the terms of the Merger Agreement the Merger Subsidiary will merge with and into the Target Company (the "Merger"), and the Target Company will be the surviving corporation to the Merger and become a wholly owned subsidiary of the Company. The Merger is expected to close on or about June ___, 2018, subject to the satisfaction or waiver of customary closing conditions. We are required to effect the Article Amendments discussed above at or prior to closing the Merger.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS AND INDUSTRY DATA

This Information Statement contains forward-looking statements about The Company that may involve substantial risks and uncertainties. All statements other than statements of historical facts contained in this filing, including statements regarding future financial condition, business strategy and plans, and objectives of management for future operations, are forward- looking statements. In some cases, you can identify forward- looking statements by words such as "anticipate," "believe," "could," "design," "estimate," "expect," "intend," "June," "plan," "potential," "predict," "project," "should," "target," "will," "would" or the negative of these terms or other similar expressions.

The Company has based these forward-looking statements largely on its current expectations and projections about future events and financial trends that it believes may affect its financial condition, results of operations, business strategy and financial needs. These forward-looking statements are subject to a number of known and unknown risks, uncertainties and assumptions.

ESSENTIAL MERGER TERMS, RELATED TRANSACTIONS AND ANTICIPATED RESULTS

On April 27th, 2018, the Company entered into a merger as described above, (Merger Agreement), the closing if which is contingent upon various due diligence requirements being satisfied by each of the respective parties. While there is no assurance or warranty that the Merger will be closed and consummated, the parties to the Merger are generally optimistic that the Merger will be completed during the month of June, 2018. As noted previously, a copy of the Merger Agreement is attached to this schedule as Exhibit A and contains various detail provisions not outlined below:

- In anticipation of the merger closing, the principal pre-merger shareholders of Klever listed below authorized and subscribed, but have not issued to themselves, the aggregate amount of 28,258,000 pre-split common shares in satisfaction of various notes and cash advancements made to Klever by management and others, deferred executive compensation owed to Management by Klever, and/or cancelation of their preferred Klever stock. The issued and outstanding stock in the Company increased from 61,322,567 as of the March 31, 10-Q filing by the Company to the presently issued and outstanding, or subscribed, pre-split common stock totaling 89,680,567. This current capitalization of the Company will be subject to the merger required reverse stock split described below.

- As a necessary term and condition of the merger, the Company pursuant to the Majority Shareholder Consent Resolutions dated April 27th 2018 has filed as of May 10, 2018 Articles of Amendment in the State of Delaware, approving a reverse split of the common stock of the Company on a 6:1 ratio, subject of this Information Statement. As a result of this split, the issued outstanding shares will be reverse split at a 6:1 ratio resulting in an outstanding capitalization of the Company of not more than 15,000,000 common shares prior to the merger closing.

- As a further term and provision of the merger agreement, the principals of DarkPulse technologies will be issued approximately 85,000,000 post-split shares at, or shortly after and in the event of, the closing of the Merger transaction, which will result in a total capitalization of 100,000,000 common shares at closing.

- Also pursuant to the terms of the merger agreement, the Company has agreed that upon the merger closing it will change its name from Klever Marketing, Inc. to some variation of DarkPulse Technologies, Inc. but which are not anticipated to require Articles of Amendment.

- DarkPulse Technology, Inc. will continue as a wholly owned operating subsidiary of the surviving company and provide the sole business purpose of the Company immediately after the Merger.

- Also to occur as part of the merger closing will be the resignations of Mr. Paul G. Begum, Mr. Robert A. Campbell and Mr. Jerry Wright as the current Klever directors upon the appointment and substitution of Mr. Dennis O'Leary and Mr. Thomas Cellucci as the directors of the Surviving Company. It is anticipated that the new board will appoint Mr. Dennis O'Leary as the Chief Executive Officer (CEO); Mr. Thomas Cellucci as the Co- CEO; Mr. Stephen Goodman as the Chief Financial Officer (CFO); Mr. Mark Banash as the Chief Technology Officer (CTO) and Mr. David Singer as the Chief Marketing Officer (CMO).

- Certain business biographical information, historical compensation and other information as to each new proposed director and officer has been previously filed with the SEC and Mailed to the Klever Shareholders as part of a Schedule 14F-1 filing by the Company as incorporated by this reference.

- DarkPulse Technologies as the intended sole operating subsidiary of the Company must be considered a developmental stage company. Its principal product consisting of unique proprietary fiber optic sensory applications for detecting stresses, temperatures and other measurements in industrial applications.

- It is also anticipated, though not warranted, that DarkPulse will be required to engage in subsequent private or public financing activities to raise capital for further development and marketing of its product lines.

Both the Company and the Target Company have made customary representations, warranties and covenants in the Merger Agreement including: (i) to conduct their businesses in the ordinary course during the interim period between the execution of the Merger Agreement and closing, (ii) not to engage in certain kinds of transactions or take certain actions during such interim period, and (iii) obtain all consents and approvals necessary to consummate the transactions contemplated by the Merger Agreement.

The foregoing description of the Merger does not purport to be complete and is qualified in its entirety by reference to the complete text of the Merger Agreement and Plan of Merger, copies of which are filed as Exhibit A and are incorporated herein by reference.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following tables set forth certain information regarding the beneficial ownership of our Common Stock as of the Record Date, of (i) each person known to us to beneficially own more than 5% of our stock, (ii) our directors, (iii) each named executive officer, and (iv) all directors and named executive officers as a group. As of March 31, 2018, there were a total of 61,322,567 shares of Common Stock issued and an additional 28,258,000 subscribed as of April 27, 2018.

The column titled "Percentage Owned" shows the percentage of voting stock beneficially owned by each listed party as of March 31, 2018.

The number of shares beneficially owned is determined under the rules promulgated by the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Under those rules, beneficial ownership includes any shares as to which a person or entity has sole or shared voting power or investment power plus any shares which such person or entity has the right to acquire within sixty (60) days of the Record Date, through the exercise or conversion of any stock option, convertible security, warrant or other right. Unless otherwise indicated, each person or entity named in the table has sole voting power and investment power (or shares such power with that person's spouse) with respect to all shares of capital stock listed as owned by that person or entity, and the address of each of the shareholders listed below is c/o Klever Marketing, Inc., 1000 East 6600 South, Suite 305, Salt Lake City, UT 84121.

	Shares	**Percentage**	**Shares [1]**	**Voting Rights**
Name and Address of Directors	**Common Stock**	**Common Stock**	**Preferred Stock**	**Preferred Stock**
Mr. Paul G Begum 30251 Golden Lantern, Suite E PMB 411 Laguna Niguel, CA	77,142	0.13%	0	0
Mr. Jerry Wright 14477 South Mark Ridge Circle South Jordan, UT 84095	500,000	0.81%	0	0
Mr. Robert A. Campbell 991 Rippey St El Cajon, CA 92020	4,007,190	6.5%	0	0
All Officers and Directors as a Group (3 Persons)	4,584,190	7.44%	0	0
Other Beneficial Owners				
PSF, Inc. [2]	9,075,195	14.8%	509,374	29,961,983
Tree of Stars Corporation[3]	2,368,381	3.8%	0	0

(1) In the event of the merger closing there will be no outstanding preferred stock or stock rights.

(2) PSF total voting rights are equivalent to 39,037,178 voting shares (42.764%).

(3) Tree of Stars Corporation is majority owned and managed by Paul Begum.

WHERE YOU CAN FIND MORE INFORMATION

Our Parent, Klever Marketing, Inc., is subject to the disclosure requirements of the Securities Exchange Act of 1934, as amended, and in accordance therewith files reports, information statements and other information, including annual and quarterly reports on Form 10-K and 10-Q, respectively, with the SEC. Reports and other information filed by the Company can be inspected and copied at the public reference facilities maintained by the SEC at Room 1024, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such material can also be obtained upon written request addressed to the SEC, Public Reference Section, and 450 Fifth Street, N.W., Washington, D.C. 20549 at prescribed rates. In addition, the SEC maintains a web site on the Internet (http://www.sec.gov) that contains reports, information statements and other information and filings regarding issuers that file electronically with the SEC through the Electronic Data Gathering, Analysis and Retrieval System. All SEC filings, when and if effective, are also posted on our website at **www.klevermarketing.com**

The following documents, as filed with the SEC by the Company, are incorporated herein by reference:

(1) Annual Report on Form 10-K for the fiscal year ended December 31, 2016;
(2) Annual Report on Form 10-K for the fiscal year ended December 31, 2017;
(3) Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2018.
(4) 8-K Report filed on May 1, 2018
(5) Schedule 14F-1 filed on May 4, 2018

You may request a copy of these filings, at no cost, by writing Klever Marketing, Inc., at 991 Rippey St., El Cajon, CA 92020 (TEL) 310-628-1158. Any statement contained in a document that is incorporated by reference will be modified or superseded for all purposes to the extent that a statement contained in this Information Statement (or in any other document that is subsequently filed with the SEC and incorporated by reference) modifies or is contrary to such previous statement. Any statement so modified or superseded will not be deemed a part of this Information Statement except as so modified or superseded.

This Information Statement is provided to the holders of capital of the Company only for information purposes in connection with the Written Consent, pursuant to and in accordance with Rule 14c-2 of the Exchange Act and the notice requirements of the DCL. Please carefully read this Information Statement.

By Order of the Board of Directors

/s/ Paul G. Begum

Chief Executive Officer Director

Dated: June __, 2018

Exhibit A

AGREEMENT

AND

PLAN OF MERGER

BY AND AMONG

KLEVER MARKETING, INC.,

DARKPULSE TECHNOLOGIES INC., AND

DPTH ACQUISITION CORPORATION

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Exhibits:

Exhibit F – [Intentionally deleted]

Exhibit G – Form of Indemnification Agreement

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "*Agreement*") is entered into effective as of the ___ day of April, 2018 (the "*Effective Date*"), by and among Klever Marketing, Inc., a Delaware corporation ("*Parent*"), DarkPulse Technologies Inc., a New Brunswick corporation ("*Company*"), and DPTH Acquisition Corporation, a Utah corporation ("*Merger Subsidiary*"). Certain capitalized terms used in this Agreement are defined in Article 9.

Background

A. The respective Boards of Directors of the parties have (i) determined that it is in the best interests of such corporations and their respective security holders to consummate a merger of Merger Subsidiary with and into Company (the "*Merger*") and (ii) approved and declared advisable this Agreement, the Merger and the other transactions contemplated by this Agreement;

B. Pursuant to the Merger, among other things, the outstanding shares of capital stock of Company will be converted into the right to receive upon Closing (as defined in this Agreement) and thereafter, the Merger Consideration (as defined in this Agreement);

C. The parties to this Agreement intend to adopt this Agreement as a plan of reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "*Code*"), and the regulations promulgated thereunder, and intend that the Merger and the transactions contemplated by this Agreement be undertaken pursuant to that plan. Accordingly, the parties intend that the Merger qualify as a "reorganization," within the meaning of Code Section 368(a), and that, with respect to the Merger and within the meaning of Code Section 368(b), each of Parent, Merger Subsidiary and Company will be a "party to a reorganization;"

D. Prior to the Merger, Parent will effect a reverse stock split of its shares of Common Stock, and the parties intend that the aggregate number of shares of Parent Common Stock to be held by Initial Parent Stockholders after the Merger (including any adjustments pursuant to this Agreement) will be approximately 15,000,000 shares of Parent Common Stock.

Agreement

In consideration of the foregoing, and the representations, warranties, and covenants contained in this Agreement, each party hereby agrees as follows:

ARTICLE 1
Merger

At the Merger Time (as defined herein), and subject to and upon the terms and conditions of this Agreement and the applicable provisions of the Utah Revised Business Corporation Act or any successor statute (the "*URBCA*"), Merger Subsidiary will merge with and into Company, the separate corporate existence of Merger Subsidiary will cease, and Company will continue as the surviving corporation and as a wholly owned subsidiary of Parent. Company, as the surviving corporation after the Merger, is hereinafter referred to as the "*Surviving Company*."

1.1 **Effects of Merger**.

(a) From and after the Merger Time, (i) Company's Certificate of Incorporation as in effect immediately prior to the Merger Time shall be amended and restated in its entirety as set forth on Exhibit A hereto, and, as so amended and restated shall be the certificate of incorporation of the Surviving Company, and (ii) Company's bylaws as in effect immediately prior to the Merger Time shall be amended and restated in their entirety as set forth on Exhibit B hereto, and, as so amended and restated shall be the bylaws of the Surviving Company.

(b) From and after the Merger Time and until further altered or amended in accordance with applicable law: (i) all of the rights, privileges, immunities, powers, franchises and authority—both public and private—of Company and Merger Subsidiary shall vest in the Surviving Company; (ii) all of the assets and property of Company and Merger Subsidiary of every kind, nature and description—real, personal and mixed, and both tangible and intangible—and every interest therein, wheresoever located, including without limitation all debts or other obligations belonging or due to Company or Merger Subsidiary, all claims and all causes of action, shall be vested absolutely and unconditionally in the Surviving Company; and (iii) all debts and obligations of Company and Merger Subsidiary, all rights of creditors of Company or Merger Subsidiary and all liens or security interests encumbering any of the property of Company or Merger Subsidiary shall be vested in the Surviving Company and shall remain in full force and effect without modification or impairment and shall be enforceable against the Surviving Company and its assets and properties with the same full force and effect as if such debts, obligations, liens or security interests had been originally incurred or created by the Surviving Company in its own name and for its own behalf. Without limiting the generality of the foregoing, the Surviving Company specifically assumes all continuing obligations which Company or Merger Subsidiary would otherwise have to indemnify its officers and directors, to the fullest extent currently provided in the Surviving Company's certificate of incorporation, bylaws and pursuant to the URBCA, with respect to any and all claims arising out of actions taken or omitted by Company's officers and directors prior to the Merger Time.

(c) Each of Parent, Company and Merger Subsidiary shall use its best efforts to take all such action as may be necessary or appropriate to effectuate the Merger in accordance with the URBCA at the Merger Time. If, at any time after the Merger Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Company with full right, title and possession to all properties, rights, privileges, immunities, powers and franchises of either Company or Merger Subsidiary, the officers of Parent, and the officers of Surviving Company on behalf of Company and Merger Subsidiary, shall take all such lawful and necessary action.

(d) Subject to the provisions of Article 6 and Article 7, the closing of the transactions contemplated hereby (the "*Closing*," and the date of the Closing will be referred to interchangeably as the "*Closing Date*," as the case may be) shall take place at such location, on such date and at such time as Company and Parent mutually agree at the earliest practicable time after the satisfaction or waiver of the conditions in Article 6, but in no event later than five business days after all such conditions have been satisfied or waived, or on such other date as may be mutually agreed by the parties hereto. On the Closing date, to effect the Merger, the parties will cause Articles or Certificates of Merger or Amalgamation or similar filings under relevant state and provincial law (the "*Certificate(s) of Merger*") to be filed with the State of Utah and the Province of New Brunswick, Canada. The Merger shall be effective upon the filing of the Certificate(s) of Merger (the "*Merger Time*").

(e) At the Closing, Parent's outstanding capital stock shall consist of approximately 15,000,000 shares of Common Stock (the "*Pre-Closing Common Stock*"), and at the Merger Time after the issuance of the shares of Parent Common Stock to the holders of Company Common Stock pursuant to Section 1.2 below, the Pre-Closing Common Stock shall represent approximately 15% of all of the issued and outstanding capital stock of the Parent.

1.2 **Effect on Company Capital Stock and Merger Subsidiary Capital Stock**. To effectuate the Merger, and subject to the terms and conditions of this Agreement, at the Merger Time:

(a) Each share of Company Common Stock issued and outstanding immediately prior to the Merger Time will be cancelled and extinguished and automatically converted into the right to receive 85,000 fully paid and non-assessable shares of Parent Common Stock. Parent will issue to each holder of Company Common Stock certificates or Book Entries evidencing the number of shares of Parent Common Stock determined in accordance with the foregoing. Immediately after the Merger Time, holders of Company Common Stock immediately prior to the Merger shall hold approximately 85% of the issued and outstanding shares of Parent Common Stock (including shares reserved for issuance pursuant to stock option plan(s)), or approximately 85,000,000 shares (including 6,000,000 shares reserved for issuance to stock option plan(s)).

(b) Each share of common stock, $0.001 par value per share, of Merger Subsidiary issued and outstanding immediately prior to the Merger Time will be automatically converted into one validly issued, fully paid and nonassessable share of common stock of the Surviving Company; and

(c) All shares of Parent Common Stock issued upon the surrender of and exchange of Company Common Stock for shares in accordance with the terms and conditions of this Section 1.2 will be deemed to have been issued and paid in full satisfaction of all rights pertaining to such shares of Company Common Stock.

1.3 **Rights of Holders of Company Capital Stock**.

(a) From and after the Merger Time and until surrendered for exchange, each outstanding stock certificate or Book Entry that, immediately prior to the Merger Time, represented shares of Company Common Stock will be deemed for all purposes, to evidence ownership of and to represent the number of whole shares of Parent Common Stock into which such shares of Company Common Stock will have been converted pursuant to Section 1.2(a) above. The record holder of each such outstanding certificate or Book Entry representing shares of Company Common Stock, will, immediately after the Merger Time, be entitled to vote the shares of Parent Common Stock into which such shares of Company Common Stock have been converted on any matters on which the holders of record of the Parent Common Stock, as of any date subsequent to the Merger Time, are entitled to vote. In any matters relating to such certificates or Book Entries of Company Common Stock, Parent may rely conclusively upon the record of stockholders maintained by Company containing the names and addresses of the holders of record of Company Common Stock on the Closing Date.

(b) At the Merger Time, Parent shall have reserved a sufficient number of authorized but unissued shares of Parent Common Stock for issuance in connection with the issuance of the Merger Consideration upon automatic conversion of Company Common Stock into Parent Common Stock at the Merger Time.

1.4 **Procedure for Surrender and Exchange of Certificates**.

(a) After the Merger Time, each record holder of outstanding shares of Company Common Stock will be entitled to receive certificates or Book Entries representing the number of whole shares of Parent Common Stock into which shares of Company Common Stock shall have been converted as provided in Section 1.2 hereof. Parent shall not be obligated to deliver certificates representing shares of Parent Common Stock, to which any holder of shares of Company Common Stock is entitled, until such holder surrenders the certificate(s), if any, representing such Company Common Stock. Upon surrender, each certificate evidencing Company Common Stock shall be canceled. If there is a transfer of Company Common Stock ownership that has not been registered in the transfer records of Company, a certificate representing the proper number of shares of Parent Common Stock may be issued to a Person other than the Person in whose name the certificate so surrendered is registered if: (x) upon presentation to the Secretary of Parent, such certificate, if any, shall be properly endorsed or otherwise be in proper form for transfer, (y) the Person requesting such transfer shall pay any transfer or other Taxes required by reason of the issuance of shares of or certificates, if any, representing shares of Parent Common Stock to a Person other than the registered holder of such shares or establish to the reasonable satisfaction of Parent that such Tax has been paid or is not applicable, and (z) the issuance of such shares of or certificates, if any, representing shares of Parent Common Stock shall not, in the sole discretion of Parent, violate the requirements of Section 4(2) of the Securities Act with respect to the private placement of Parent Common Stock that will result from the Merger.

(b) Any shares of Parent Common Stock issued in the Merger will not be transferable except (1) pursuant to an effective registration statement under the Securities Act or (2) upon receipt by Parent of a written opinion of counsel reasonably satisfactory in form and substance to Parent to the effect that the proposed transfer is exempt from the registration requirements of the Securities Act and relevant state securities laws. Restrictive legends will be placed on all certificates representing shares of Parent Common Stock issued in the Merger, substantially as follows:

NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT (A) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE RULES AND REGULATIONS IN EFFECT THEREUNDER AND ALL APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS (SUCH FEDERAL AND STATE LAWS, THE "SECURITIES LAWS") OR (B) IF THE COMPANY HAS BEEN FURNISHED WITH AN OPINION OF COUNSEL FOR THE HOLDER, WHICH OPINION AND COUNSEL SHALL BE REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT SUCH TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION IS EXEMPT FROM THE REGISTRATION OR SIMILAR REQUIREMENTS OF THE SECURITIES LAWS.

(c) Excluding any shares of Company Common Stock held in Book Entry, in the event any certificate for shares of Company Common Stock shall have been lost, stolen or destroyed, Parent shall issue in exchange for such lost, stolen or destroyed certificate, upon the making of a sworn affidavit of that fact by the holder thereof, one or more certificates representing such shares of Parent Common Stock as provided herein; provided, however, that Parent, in its discretion and as a condition precedent to the issuance of such certificates, may require the holder of the shares represented by such lost, stolen or destroyed certificate to deliver a bond in such sum as it may direct as indemnity against any claim that may be made against Parent or any other party with respect to the certificate alleged to have been lost, stolen or destroyed.

1.5 **[Intentionally deleted]**.

1.6 **Directors and Officers of the Surviving Company**. The directors of Company immediately prior to the Merger Time will become the sole directors of the Surviving Company. As of the Merger Time, the officers of Company immediately prior to the Merger Time will become the sole officers of the Surviving Company. Each such director and officer will hold such office until their respective successors are duly appointed or such Persons are removed from office in accordance with applicable law and the articles of incorporation and bylaws of the Surviving Company.

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1.7 **Tax Treatment**. It is intended by the parties hereto that the Merger shall constitute a reorganization within the meaning of Section 368(a) of the Code. Each of the parties hereto adopts this Agreement as a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the United States Treasury Regulations. Both prior to and after the Closing, each party's books and records shall be maintained, and all federal, state and local income tax returns and schedules thereto shall be filed in a manner consistent with the Merger being qualified as a tax-free reorganization under Section 368(a) of the Code (and comparable provisions of any applicable state or local laws).

1.8 **Additional Merger Consideration**. At Closing, Company shall pay the sum of One Hundred Fifty Thousand Dollars ($150,000) in immediately available funds (the "*Closing Payment Amount*") to Parent and or its creditors pursuant to the disbursement schedule set forth in Schedule 1.7. In addition to the Closing Payment Amount, Company has agreed and stipulated that Parent may preserve after Closing as additional merger consideration, the four convertible promissory notes comprising the Carryover Notes (as defined in Section 6.3(r)) in the total aggregate amount of $150,000.

ARTICLE 2
Representations and Warranties of Company

Company hereby represents and warrants to Parent as follows:

2.1 **Organization and Good Standing**. Company (a) is a duly organized and validly existing corporation in good standing under the laws of the jurisdiction in which it was organized and (b) has full corporate power and authority to own and lease its properties and assets and conduct its business. The copies of the certificate of incorporation and bylaws of Company that have been made available to Parent are correct and complete copies of such documents as in effect as of the Effective Date. Company is duly qualified and in good standing to do business as a foreign corporation in each jurisdiction in which the ownership and leasing of its properties and assets or the conduct of its business requires such qualification, except where the failure to be so qualified or in good standing will not have a Material Adverse Effect on the ability of Company to consummate the transactions contemplated by this Agreement.

2.2 **Authority and Authorization; Conflicts; Consents**.

(a) *Authority and Authorization*. Company has the requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement by Company and

the consummation by Company of the transactions contemplated hereby have been duly authorized by Company's Board of Directors and, except for approval of this Agreement and the Merger by the requisite approval of Company's stockholders (the "*Required Company Stockholder Approval*"), no other corporate proceedings on the part of Company are necessary to authorize the execution and delivery of this Agreement and the consummation of the Merger and all other transactions contemplated hereby. This Agreement has been duly executed and delivered by Company and, assuming it is a valid and binding obligation of Parent and Merger Subsidiary, constitutes a valid and binding obligation of Company enforceable in accordance with its terms except as enforcement may be limited by general principles of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar laws affecting creditors' rights and remedies generally.

(b) *Conflicts*. Neither the execution or delivery by Company of this Agreement or by Company of any Ancillary Document nor consummation by Company of the transactions contemplated herein or therein does or will (with or without the passage of time or giving of notice): (1) constitute a breach of, violate, conflict with or give rise to or create any right or obligation under its articles of incorporation or bylaws; (2) violate any applicable law or order; or (3) constitute a breach or violation of or a default under, conflict with or give rise to or create any right of any Person other than Company to accelerate, increase, terminate, modify or cancel any right or obligation under, any contract to which Company is a party, except where such breach, violation, default, conflict or right described in clause (2) or (3) above will not have a Material Adverse Effect on the ability of Company to consummate the transactions contemplated herein.

(c) *Consents*. Except for (a) the Required Company Stockholder Approval, (b) approvals under applicable state securities laws and (c) the filing of the Certificate(s) of Merger, no consent or approval by, notification to or filing with any Person is required in connection with the execution, delivery or performance by Company of this Agreement or any Ancillary Document or consummation of the transactions contemplated herein or therein by Company, except for any consent, approval, notice or filing, the absence of which will not have a Material Adverse Effect on the ability of Company to consummate the transactions contemplated herein.

2.3 **Capitalization**.

(a) The authorized, issued and outstanding shares of capital stock of Company and all issued and outstanding options, warrants and convertible promissory notes to purchase or acquire capital stock of Company immediately prior to the Merger Time are set forth on Schedule 2.3(a). All issued and outstanding shares of Company Common Stock have been duly authorized and validly issued, are fully paid and nonassessable, have not been issued in violation of any preemptive rights, and are free from any restrictions on transfer (other than restrictions under the Securities Act or state securities laws) or any options, pledges, claims, liens, charges, encumbrances and security interests of any kind or nature whatsoever (collectively, "*Liens*"), except those restrictions and provisions applicable to the vesting of the Options, Warrants and Convertible Promissory Notes. Other than as described on Schedule 2.3(a), Company has no other equity securities or securities containing any equity features that are authorized, issued or outstanding, including any shares of preferred stock. Except as set forth in Schedule 2.3(a), there are no agreements or other rights or arrangements existing which provide for the sale or issuance of capital stock by Company and there are no rights, subscriptions, warrants, options, conversion rights or agreements of any kind outstanding to purchase or otherwise acquire from Company any shares of capital stock or other securities of Company of any kind. Except as set forth on Schedule 2.3(a), there are no agreements or other obligations (contingent or otherwise) which may require Company to repurchase or otherwise acquire any shares of its capital stock.

(b) Except as disclosed on Schedule 2.3(b), Company does not own, and is not party to any contract to acquire, any equity securities or other securities of any entity or any direct or indirect equity or ownership interest in any other entity. To Company's Knowledge, there exist no voting trusts, proxies, or other contracts with respect to the voting of shares of capital stock of Company.

(c) Schedule 2.3(c) details those Persons to whom Company has granted registration rights, which rights will obligate Company and/or Parent to file a registration statement (or include certain shares in a registration statement filed with the SEC) covering the resale of shares of Parent Common Stock constituting Merger Consideration.

2.4 **Litigation**. There is no claim whether or not commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or other Proceeding pending or, to the Knowledge of Company, threatened against Company or to which Company is a party or that is reasonably expected to adversely affect Company and (b) Company is not subject to any order, in each case that will have a Material Adverse Effect on the ability of Company to consummate the transactions contemplated herein.

2.5 **No Brokers or Finders**. Company has no obligation or other liability to any broker, finder or similar intermediary in connection with the transactions contemplated herein that would cause any party to this Agreement to become liable for payment of any fee or expense with respect thereto.

2.6 **Tax Matters**.

(a) For purposes of this Agreement, "*Company Tax Returns*" includes all Tax Returns of Company relating to any Taxes with respect to any income, properties or operations of Company or any of its Tax Affiliates. Except as disclosed on Schedule 2.6(a): (i) Company and each of its Tax Affiliates has timely filed (or has had timely filed on its behalf) all Company Tax Returns required to be filed or sent by it in respect of any Taxes or required to be filed or sent by it to any Tax Authority having jurisdiction; (ii) all such Company Tax Returns are complete and accurate in all material respects; (iii) Company and each of its Tax Affiliates has timely and properly paid (or has had paid on its behalf) all Taxes required to be paid by it; (iv) Company has established on the Company Balance Sheet, in accordance with GAAP, consistently applied, reserves that are adequate for the payment of any Taxes not yet due and payable; and (v) Company and each of its Tax Affiliates has complied with all applicable laws, rules and regulations relating to the collection or withholding of Taxes from third parties (including, without limitation, employees) and the payment thereof (including, without limitation, withholding of Taxes under Code Sections 1441 and 1442, or similar provisions under any foreign laws).

(b) There are no material Liens for Taxes upon any assets of Company or any of its Tax Affiliates, except statutory Liens for Taxes not yet due.

(c) No deficiency for any Taxes has been proposed, asserted or assessed against Company or any of its Tax Affiliates that has not been resolved and paid in full or is not being contested in good faith. No waiver, extension or comparable consent given by Company or any of its Tax Affiliates regarding the application of the statute of limitations with respect to any Taxes or Company Tax Returns is outstanding, nor is any request for any such waiver or consent pending. There has been no Tax audit or other Proceeding with regard to any Company Tax Returns or Taxes relating to Company or any of its Tax Affiliates, nor is any such Tax audit or other Proceeding pending, nor has there been any notice to Company by any Tax Authority regarding any such Tax audit or other Proceeding, or, to the Knowledge of Company, is any such Tax audit or other Proceeding threatened with regard to any Company Tax Returns or Taxes or relating to Company or any of its Tax Affiliates. Company does not expect the assessment of any additional Taxes of Company for any period prior to the date hereof and has no Knowledge of any unresolved questions, claims or disputes concerning the liability for Taxes relating to Company or any of its Tax Affiliates that would exceed the estimated reserves established on its books and records.

(d) Neither Company nor any of its Tax Affiliates is liable for Taxes of any other Person nor is currently under any contractual obligation to indemnify any Person with respect to Taxes, or a party to any Tax sharing agreement or any other agreement providing for payments by Company with respect to Taxes. Neither Company nor any of its Tax Affiliates has agreed and is not required, as a result of a change in method of accounting or otherwise, to include any adjustment under Code Section 481 (or any corresponding provision of state, local or foreign law) in Taxable income. Schedule 2.6(d) contains a list of all jurisdictions in which Company or any of its Tax Affiliates is required to file any Company Return and no claim has been made by a Tax Authority in a jurisdiction where Company or any of its Tax Affiliates does not currently file Company Tax Returns, that Company or any of its Tax Affiliates is or may be subject to Taxation by that jurisdiction. There are no advance rulings in respect of any Tax pending or issued by any Tax Authority with respect to any Taxes of or any of its Tax Affiliates. Neither Company nor any of its Tax Affiliates has entered into any gain recognition agreements under Code Section 367 and the Treasury Regulations promulgated thereunder. Neither Company nor any of its Tax Affiliates is liable with respect to any indebtedness the interest of which is not deductible for applicable federal, foreign, state or local income Tax purposes.

(e) Company has been neither a “distributing corporation” nor a “controlled corporation” (within the meaning of Code Section 355) in a distribution of stock qualifying for Tax-free treatment under Code Section 355.

(f) Except as disclosed on Schedule 2.6(f), Company has not requested any extension of time within which to file any Company Return, which return has not since been filed.

(g) Neither Company nor any Tax Affiliate has, for the five (5) year period preceding the Closing, been a United States real property holding corporation within the meaning of Code Section 897(c)(2).

(h) There have been made available to Parent true and complete copies of all Company Tax Returns with respect to Taxes based on net income; and any other Company Tax Returns requested by Parent that may be relevant to Company or any of its Tax Affiliates or their respective business, assets or operations for any and all Taxable periods ending before the date hereof; and for any other Taxable years that remain subject to audit or investigation by any Tax Authority.

(i) Company and each of its Tax Affiliates is a corporation or association Taxable as a corporation for federal income Tax purposes.

(j) Neither Company nor any of its Tax Affiliates has made any election under Code Section 1362(a) to be an S corporation.

2.7 **Contracts and Commitments**.(k) Schedule 2.7 lists all material agreements, whether oral or written, to which Company is a party, which are currently in effect, and which relate to the operation of Company’s business. Company has performed all obligations required to be performed by it under the contracts or commitments required to be disclosed on Schedule 2.7 and is not in receipt of any claim of default under any contract or commitment required to be disclosed under such caption. Company has no present expectation or intention of not fully performing any material obligation pursuant to any contract or commitment required to be disclosed on Schedule 2.7; and Company has no Knowledge of any breach or anticipated breach by any other party to any contract or commitment required to be disclosed on such schedule.

2.8 **Affiliate Transactions**. Except as set forth in Schedule 2.8, and other than pursuant to this Agreement, no officer, director or employee of Company, or any member of the immediate family of any such officer, director or employee, or any entity in which any of such Persons owns any beneficial interest in Company (other than any publicly-held corporation whose stock is traded on a national securities exchange or in the over-the-counter market and less than five percent of the stock of which is beneficially owned by any of such Persons) (collectively, the "*Company Insiders*"), has any agreement with Company (other than normal employment arrangements) or any interest in any property, real, personal or mixed, tangible or intangible, used in or pertaining to the business of Company (other than ownership of capital stock of Company). Except as set forth on Schedule 2.8, Company is not indebted to any Company Insider (except for amounts due as normal salaries and bonuses and in reimbursement of ordinary business expenses) and no Company Insider is indebted to Company (except for cash advances for ordinary business expenses). Except as set forth on Schedule 2.8, none of the Company Insiders has any direct or indirect interest in any competitor, supplier or customer of Company or in any Person from whom or to whom Company leases any property, or in any other Person with whom Company transacts business of any nature. The officers, directors and employees of Company have not, by virtue of their employment with or service to Company, usurped any corporate opportunities of any third party to which such officer, director and employee has, or could reasonably be considered to have, a fiduciary duty under any applicable laws. For purposes of this Section 2.8 the members of the immediate family of an officer, director or employee shall consist of the spouse, parents, children and siblings of such officer, director or employee.

2.9 **Compliance with Laws; Permits**.

(a) Except for any noncompliance that would not reasonably be expected to have a Material Adverse Effect on Company, Company and its officers, directors, agents and employees have complied with all applicable laws, Environmental Laws, regulations and other requirements, including, but not limited to, federal, state, local and foreign laws, ordinances, rules, regulations and other requirements pertaining to equal employment opportunity, employee retirement, affirmative action and other hiring practices, occupational safety and health, workers' compensation, unemployment and building and zoning codes, and no claims have been filed against Company, and Company has not received any written notice, alleging a violation of any such laws, Environmental Laws, regulations or other requirements. Company is not relying on any exemption from or deferral of any such applicable law, Environmental Laws, regulation or other requirement that would not be available to Parent after it acquires the properties, assets and business of Company.

(b) Except as set forth on Schedule 2.9(b), Company has no licenses, permits, Environmental Permits or certificates, from federal, state, local and foreign authorities (including, without limitation, federal and state agencies regulating occupational health and safety) necessary to permit it to conduct its business and own and operate its properties.

2.10 **Financial Statements**. Prior to the Closing, Company has made available to Parent audited consolidated balance sheets of Company at December 31, 2017, and the related audited consolidated statements of operations, stockholders' equity and cash flows of Company for the annual period then ended, as well as an unaudited consolidated balance sheet of Company as of March 31, 2018, and the related unaudited consolidated statements of operations, stockholders' equity and cash flows of Company for the three-month period then ended (together, the "*Company Financial Statements*"). The Company Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto), and fairly present the financial position of Company as of the respective dates thereof and the results of its operations and cash flows and stockholder equity for the periods indicated.

2.11 **No Undisclosed Liabilities**. Except as reflected in the balance sheet of Company at March 31, 2018 (the "*Latest Company Balance Sheet*"), Company has no liabilities (whether accrued, absolute, contingent, unliquidated or otherwise) except (i) liabilities which have arisen after the date of the Latest Company Balance Sheet in the ordinary course of business, none of which is a material uninsured liability for breach of contract, breach of warranty, tort, infringement, claim or lawsuit, or (ii) as otherwise set forth on Schedule 2.11.

2.12 **Books and Records**. The books of account, minute books, stock record books, and other similar records of Company, complete copies of which have been made available to Parent, have been properly kept and contain no inaccuracies except for inaccuracies that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Company.

2.13 **Real Property**. Schedule 2.13 lists all real property leased by Company. Company does not own any real property. Company has good and valid title to all of its leaseholds and other interests free and clear of all Liens, except for such Liens which do not detract from the value or interfere with the present use of the property subject thereto or affected thereby. The real property to which such leaseholds and other interests pertain constitutes all of the real property used in Company's business.

2.14 **Insurance**. The insurance policies obtained and maintained by Company that are material to Company are in full force and effect, all premiums due and payable thereon have been paid (other than retroactive or retrospective premium adjustments that Company is not currently required, but may in the future be required, to pay with respect to any period ending prior to the Effective Date), and Company has received no written notice of cancellation or termination with respect to any such policy that has not been replaced on substantially similar terms prior to the date of such cancellation.

2.15 **Absence of Certain Developments**. Except as disclosed in the Company Financial Statements or as otherwise contemplated by this Agreement, since December 31, 2017, Company has owned and operated its assets, properties and businesses consistent with past practice. Without limiting the generality of the foregoing, except as listed in Schedule 2.15, since December 31, 2017, Company has not:

(a) experienced any change that has had or could reasonably be expected to have a Material Adverse Effect on Company; or

(b) suffered (i) any loss, damage, destruction or other property or casualty (whether or not covered by insurance) or (ii) any loss of officers, employees, dealers, distributors, independent contractors, customers or suppliers, which had or may reasonably be expected to result in a Material Adverse Effect on Company.

2.16 **Employee Benefit Plans**.

(a) Company does not have, and has never had, any employee benefit plan (within the meaning of Section 3(3) of ERISA), or any other plan, arrangement, program or payroll practice providing compensation, benefits or perquisites to any class of employees, former employees or directors of Company other than the Agreements relating to the Options, the Warrants and the Convertible Promissory Notes.

(b) Company does not have, and has never had, any agreement, plan or other arrangement for the benefit of any independent contractor serving Company that is or was treated as a nonqualified deferred compensation plan under Code Section 409A.

(c) The consummation of the transactions contemplated by this Agreement will not (i) cause any employee, former employee, director or independent contractor to become entitled to any severance pay, unemployment compensation or other payment; (ii) accelerate the time of payment or vesting of any benefit payable to any such Person or (iii) increase the amount of compensation or benefits due to any such Person.

2.17 **Employees**.

(a) Schedule 2.17(a) lists, as of the Effective Date, the name, position, base compensation and, for calendar year 2017, total compensation for each employee of Company.

(b) Except as otherwise set forth in Schedule 2.17(b), or as contemplated by this Agreement, to the Knowledge of Company, (i) neither any executive employee of Company nor any group of the employees of Company has any plans to terminate his, her or its employment; (ii) Company has no material labor relations problem pending and its labor relations are satisfactory; (iii) there are no workers' compensation claims pending against Company nor is Company aware of any facts that would give rise to such a claim; (iv) no employee of Company is subject to any secrecy or noncompetition agreement or any other agreement or restriction of any kind that would impede in any way the ability of such employee to carry out fully all activities of such employee in furtherance of the business of Company; and (v) no employee or former employee of Company has any claim with respect to any intellectual property rights of Company.

2.18 **Proprietary Information and Inventions**. Set forth on Schedule 2.18 is a complete and accurate list of all current Company employees, consultants, contractors or other Persons that are subject to a non-disclosure agreement or an alternative employment agreement with Company containing comparable non-disclosure provisions.

2.19 **Intellectual Property**. Set forth on Schedule 2.19 is a complete and accurate list of all Intellectual Property owned or licensed by Company, and accurately identifies all Persons from which or to which Company licenses all such listed Intellectual Property. For purposes of this Agreement, the term "*Intellectual Property*" means: (a) patents (including any registrations, continuations, continuations in part, renewals and any applications for any of the foregoing); (b) registered and unregistered copyrights and copyright applications; and (c) registered and unregistered trademarks, service marks, trade names, slogans, logos, designs and general intangibles of the like nature, together with all registrations and applications therefor.

2.20 **Tax-Free Reorganization**. Company has not taken or agreed to take any action that would prevent the Merger from qualifying as a reorganization under Section 368(a) of the Code.

2.21 **Full Disclosure**. The representations and warranties of Company contained in this Agreement (and in any schedule, exhibit, certificate or other instrument to be delivered under this Agreement) do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which such statements were made, not misleading. There is no fact of which Company has Knowledge that has not been disclosed to Parent pursuant to this Agreement, including the schedules hereto, all taken together as a whole, which has had or would reasonably be expected to have a Material Adverse Effect on Company or materially adversely affect the ability of Company to consummate in a timely manner the transactions contemplated hereby.

ARTICLE 3
Representations and Warranties of Parent and Merger Subsidiary

Parent and Merger Subsidiary hereby jointly and severally represent and warrant to Company as follows:

3.1 **Organization and Good Standing**. Each of Parent and Merger Subsidiary (a) is a duly organized and validly existing corporation in good standing under the laws of the jurisdiction in which it was organized and (b) has full corporate power and authority to own and lease its properties and assets and conduct its business. The copies of the articles of incorporation and bylaws of each of Parent and Merger Subsidiary that have been made available to

Company are correct and complete copies of such documents as in effect as of the Effective Date. Parent is duly qualified and in good standing to do business as a foreign corporation in each jurisdiction in which the ownership and leasing of its properties and assets or the conduct of its business requires such qualification, except where the failure to be so qualified or in good standing will not have a Material Adverse Effect on the ability of Parent to consummate the transactions contemplated by this Agreement. Parent has no subsidiaries other than Merger Subsidiary.

3.2 **Authority and Authorization; Conflicts; Consents**.

(a) *Authority and Authorization*. The execution, delivery and performance of this Agreement and each Ancillary Document of Parent and Merger Subsidiary have been duly authorized and approved by all necessary corporate action with respect to Parent and Merger Subsidiary, and each such authorization and approval remains in full force and effect. This Agreement has been duly executed and delivered by Parent and Merger Subsidiary and, assuming it is a valid and binding obligation of Company and constitutes a valid and binding obligation of Parent and Merger Subsidiary enforceable in accordance with its terms except as enforcement may be limited by general principles of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar laws affecting creditors' rights and remedies generally.

(b) *Conflicts*. Neither the execution or delivery by Parent and Merger Subsidiary of this Agreement or any Ancillary Document nor consummation by Parent and Merger Subsidiary of the transactions contemplated herein or therein does or will (with or without the passage of time or giving of notice): (1) constitute a breach of, violate, conflict with or give rise to or create any right or obligation under its articles of incorporation or bylaws; (2) violate any applicable law or order; or (3) constitute a breach or violation of or a default under, conflict with or give rise to or create any right of any Person other than Parent to accelerate, increase, terminate, modify or cancel any right or obligation under, any contract to which Parent or Merger Subsidiary is a party, except where such breach, violation, default, conflict or right described in clause (2) or (3) above will not have a Material Adverse Effect on the ability of Parent and Merger Subsidiary to consummate the transactions contemplated herein.

(c) *Consents*. Except for (a) approvals under applicable state securities laws and (b) the filing of the Certificate(s) of Merger, no consent or approval by, notification to or filing with any Person is required in connection with the execution, delivery or performance by Parent or Merger Subsidiary of this Agreement or any Ancillary Document or Parent or Merger Subsidiary's consummation of the transactions contemplated herein or therein, except for any consent, approval, notice or filing, the absence of which will not have a Material Adverse Effect on the ability of Parent or Merger Subsidiary to consummate the transactions contemplated herein.

3.3 **Capitalization**.

(a) The authorized, issued and outstanding shares of capital stock of Parent as of the date hereof are correctly set forth on Schedule 3.3(a). The issued and outstanding shares of capital stock of Parent have been duly authorized and validly issued, are fully paid and nonassessable, and have not been issued in violation of any preemptive rights. Other than as described on Schedule 3.3(a), Parent has no other equity securities or securities containing any equity features that are authorized, issued or outstanding. There are no agreements or other rights or arrangements existing which provide for the sale or issuance of capital stock by Parent and there are no rights, subscriptions, warrants, options, conversion rights or agreements of any kind outstanding to purchase or otherwise acquire from Parent any shares of capital stock or other securities of Parent of any kind. There are no agreements or other obligations (contingent or otherwise) which may require Parent to repurchase or otherwise acquire any shares of its capital stock.

Other than as described on Schedule 3.3(a), there are not currently any outstanding capital stock, options, warrants or other rights to acquire any shares of Parent capital stock.

(b) There are no registration rights and, to Parent's Knowledge, there exist no voting trusts, proxies, or other contracts with respect to the voting of shares of capital stock of Parent.

(c) The authorized capital stock of Merger Subsidiary consists of One Hundred (100) shares of common stock, par value $0.001 per share, all of which are issued and outstanding and held of record by Parent as of the date hereof. The issued and outstanding shares of capital stock of Merger Subsidiary are duly authorized, validly issued, fully paid and nonassessable and have not been issued in violation of any preemptive rights. Except as disclosed on Schedule 3.3(c), there are no options, warrants, conversion privileges or other rights, agreements, arrangements or commitments obligating Merger Subsidiary to issue, sell, purchase or redeem any shares of its capital stock or securities or obligations of any kind convertible into or exchangeable for any shares of its capital stock

(d) The shares of Parent Common Stock representing the Merger Consideration will be, when issued in accordance with the terms of this Agreement, duly authorized, validly issued, fully paid and nonassessable.

3.4 **Litigation**. There is no claim whether or not commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or other Proceeding pending or, to the Knowledge of Parent, threatened against Parent or to which Parent is a party or that is reasonably expected to adversely affect Parent and (b) Parent is not subject to any order, in each case that will have a Material Adverse Effect on the ability of Parent to consummate the transactions contemplated herein.

3.5 **No Brokers or Finders**. Neither Parent nor Merger Subsidiary has any obligation or other liability to any broker, finder or similar intermediary in connection with the transactions contemplated herein that would cause any party to this Agreement to become liable for payment of any fee or expense with respect thereto.

3.6 **Tax Matters**.

(a) For purposes of this Agreement, "*Parent Tax Returns*" includes all Tax Returns of Parent relating to any Taxes with respect to any income, properties or operations of Parent or any of its Tax Affiliates. Except as disclosed on Schedule 3.6(a): (i) Parent and each of its Tax Affiliates has timely filed (or has had timely filed on its behalf) all Parent Tax Returns required to be filed or sent by it in respect of any Taxes or required to be filed or sent by it to any Tax Authority having jurisdiction; (ii) all such Parent Tax Returns are complete and accurate in all material respects; (iii) Parent and each of its Tax Affiliates has timely and properly paid (or has had paid on its behalf) all Taxes required to be paid by it; (iv) Parent has established on the Parent Balance Sheet, in accordance with GAAP, consistently applied, reserves that are adequate for the payment of any Taxes not yet due and payable; and (v) Parent and each of its Tax Affiliates has complied with all applicable laws, rules and regulations relating to the collection or withholding of Taxes from third parties (including, without limitation, employees) and the payment thereof (including, without limitation, withholding of Taxes under Code Sections 1441 and 1442, or similar provisions under any foreign laws).

(b) There are no material Liens for Taxes upon any assets of Parent or any of its Tax Affiliates, except statutory Liens for Taxes not yet due.

(c) No deficiency for any Taxes has been proposed, asserted or assessed against Parent or any of its Tax Affiliates that has not been resolved and paid in full or is not being contested in good faith. Except as disclosed in

Schedule 3.6(c), no waiver, extension or comparable consent given by Parent or any of its Tax Affiliates regarding the application of the statute of limitations with respect to any Taxes or Parent Tax Returns is outstanding, nor is any request for any such waiver or consent pending. Except as disclosed in Schedule 3.6(c), there has been no Tax audit or other Proceeding with regard to any Parent Tax Returns or Taxes relating to Parent or any of its Tax Affiliates, nor is any such Tax audit or other Proceeding pending, nor has there been any notice to Parent by any Tax Authority regarding any such Tax audit or other Proceeding, or, to the Knowledge of Parent, is any such Tax audit or other Proceeding threatened with regard to any Parent Tax Returns or Taxes or relating to Parent or any of its Tax Affiliates. Parent does not expect the assessment of any additional Taxes of Parent for any period prior to the date hereof and has no Knowledge of any unresolved questions, claims or disputes concerning the liability for Taxes relating to Parent or any of its Tax Affiliates that would exceed the estimated reserves established on its books and records.

(d) Neither Parent nor any of its Tax Affiliates is a party to any agreement, contract or arrangement that would result, separately or in the aggregate, in the payment of any "excess parachute payments" within the meaning of Code Section 280G; and the consummation of the transactions contemplated by this Agreement will not be a factor causing payments to be made by Parent or any of its Tax Affiliates not to be deductible (in whole or in part) under Code Section 280G. Except as set forth on Schedule 3.6(d), neither Parent nor any of its Tax Affiliates is liable for Taxes of any other Person nor is currently under any contractual obligation to indemnify any Person with respect to Taxes, or a party to any Tax sharing agreement or any other agreement providing for payments by Parent with respect to Taxes. Except as set forth on Schedule 3.6(d), neither Parent nor any of its Tax Affiliates is a party to any joint venture, partnership or other arrangement or contract that could be treated as a partnership for federal income Tax purposes. Neither Parent nor any of its Tax Affiliates has agreed and is not required, as a result of a change in method of accounting or otherwise, to include any adjustment under Code Section 481 (or any corresponding provision of state, local or foreign law) in Taxable income. Schedule 3.6(d) contains a list of all jurisdictions in which Parent or any of its Tax Affiliates is required to file any Parent Return and no claim has been made by a Tax Authority in a jurisdiction where Parent or any of its Tax Affiliates does not currently file Parent Tax Returns, that Parent or any of its Tax Affiliates is or may be subject to Taxation by that jurisdiction. There are no advance rulings in respect of any Tax pending or issued by any Tax Authority with respect to any Taxes of or any of its Tax Affiliates. Neither Parent nor any of its Tax Affiliates has entered into any gain recognition agreements under Code Section 367 and the Treasury Regulations promulgated thereunder. Neither Parent nor any of its Tax Affiliates is liable with respect to any indebtedness the interest of which is not deductible for applicable federal, foreign, state or local income Tax purposes.

(e) Parent has been neither a "distributing corporation" nor a "controlled corporation" (within the meaning of Code Section 355) in a distribution of stock qualifying for Tax-free treatment under Code Section 355.

(f) Except as set forth on Schedule 3.6(f), Parent has not requested any extension of time within which to file any Parent Return, which return has not since been filed.

(g) Neither Parent nor any Tax Affiliate has, for the five (5) year period preceding the Closing, been a United States real property holding corporation within the meaning of Code Section 897(c)(2).

(h) There have been delivered to Company true and complete copies of Parent Tax Returns with respect to Taxes based on net income for the 2012, 2013, and 2014 tax years; and any other Parent Tax Returns requested by Company that may be relevant to Parent or any of its Tax Affiliates or their respective business, assets or operations for any and all Taxable periods ending before the date hereof; and for any other Taxable years that remain subject to audit or investigation by any Tax Authority.

(i) Except as disclosed on Schedule 3.6(i), Parent and each of its Tax Affiliates is, and at all times has been, a corporation or association Taxable as a corporation for federal income Tax purposes.

(j) Neither Parent nor any of its Tax Affiliates has made any election under Code Section 1362(a) to be an S corporation.

3.7 **Contracts and Commitments**.

(a) Except as set forth on Schedule 3.7(a), all material agreements of Parent have been filed as an exhibit to the Parent SEC Filings (such material contracts and any contracts described on Schedule 3.7(a), the "*Parent Contracts*").

(b) To Parent's Knowledge, Parent has performed, in all material respects, the obligations required to be performed by it in connection with the Parent Contracts and is not in receipt of any claim of default under any Parent Contract; Parent has no present expectation or intention of not fully performing any material obligation pursuant to any Parent Contract; and Parent has no Knowledge of any breach or anticipated breach by any other party to any Parent Contract. Schedule 3.7(b) lists the liabilities and obligations of Parent as of the Closing.

3.8 **Affiliate Transactions**. Except as disclosed in the Parent SEC Filings, and other than pursuant to this Agreement, no officer, director or employee of Parent, or any member of the immediate family of any such officer, director or employee, or any entity in which any of such Persons owns any beneficial interest (other than any publicly-held corporation whose stock is traded on a national securities exchange or in the over-the-counter market and less than one percent of the stock of which is beneficially owned by any of such Persons) (collectively, the "*Parent Insiders*"), has any agreement with Parent (other than normal employment arrangements) or any interest in any property, real, personal or mixed, tangible or intangible, used in or pertaining to the business of Parent (other than ownership of capital stock of Parent). Parent is not indebted to any Parent Insider (except for amounts due as normal salaries and bonuses and in reimbursement of ordinary business expenses) and no Parent Insider is indebted to Parent except for cash advances for ordinary business expenses). None of the Parent Insiders has any direct or indirect interest in any competitor, supplier or customer of Parent or in any Person from whom or to whom Parent leases any property, or in any other Person with whom Parent transacts business of any nature. For purposes of this Section 3.8, the members of the immediate family of an officer, director or employee shall consist of the spouse, parents, children and siblings of such officer, director or employee.

3.9 **Compliance with Laws; Permits**.

(a) Except for any noncompliance that would not reasonably be expected to have a Material Adverse Effect on Parent, Parent and its officers, directors, agents and employees have complied with all applicable laws, Environmental Laws, regulations and other requirements, including, but not limited to, federal, state, local and foreign laws, ordinances, rules, regulations and other requirements pertaining to equal employment opportunity, employee retirement, affirmative action and other hiring practices, occupational safety and health, workers' compensation, unemployment and building and zoning codes, and no claims have been filed against Parent, and Parent has not received any written notice, alleging a violation of any such laws, Environmental Laws, regulations or other requirements.

(b) Parent has no licenses, permits, Environmental Permits or certificates from federal, state, local and foreign authorities (including, without limitation, federal and state agencies regulating occupational health and safety) and no such items are necessary to permit it to conduct its business and own and operate its properties.

3.10 **Exchange Act Reports**.

(a) The Parent Common Stock has been registered under Section 12 of the Exchange Act and Parent is subject to the periodic reporting requirements of Section 13 of the Exchange Act.

(b) Except as set forth on Schedule 3.10(b), Parent has timely filed all forms, reports and documents required to be filed with the SEC by applicable law since the date it first became subject to the periodic reporting requirements of Sections13(a), 14(a), 14(c) and 15(d) of the Exchange Act. All such required forms, reports and documents (including the financial statements, exhibits and schedules thereto and those documents that Parent may file subsequent to the date hereof) are collectively referred to herein as the "*Parent SEC Filings*." As of their respective dates, the Parent SEC Filings (i) were prepared in accordance with the requirements of the Securities Act or Exchange Act, as the case may be, and the rules and regulations of the SEC thereunder applicable to such Parent SEC Filings, and (ii) did not at the time they were filed (or if amended or superseded by a filing prior to the Effective Date, then on the date of such filing) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) Each of the financial statements (including, in each case, any related notes thereto) contained in the Parent SEC Filings, as of their respective dates, (i) complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto, (ii) was prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited interim financial statements, as may be permitted by the SEC on Form 10-Q under the Exchange Act) and (iii) fairly presented the financial position of Parent at the respective dates thereof and the consolidated results of its operations and cash flows for the periods indicated, except that the unaudited interim financial statements were or are subject to normal and recurring year-end adjustments which were not, or are not expected to be, material in amount. The balance sheet of Parent as of December 31, 2017, is hereinafter referred to as the "*Parent Balance Sheet*." Except for those liabilities disclosed on Schedule 3.10(c) (the "*Permitted Liabilities*"), as of the Merger Time Parent will not have any liabilities of a nature required to be disclosed on a balance sheet or in the related notes to the consolidated financial statements prepared in accordance with GAAP.

3.11 **No Undisclosed Liabilities**. Except as reflected in the unaudited balance sheet of Parent at March 31, 2018, included in Parent's quarterly report on Form 10-Q for such period (the "*Latest Parent Balance Sheet*"), Parent has no liabilities (whether accrued, absolute, contingent, unliquidated or otherwise) except (i) liabilities which have arisen after the date of the Latest Parent Balance Sheet in the ordinary course of business, none of which is a material uninsured liability for breach of contract, breach of warranty, tort, infringement, claim or lawsuit, or (ii) as otherwise set forth on Schedule 3.11.

3.12 **Books and Records**. The books of account, minute books, stock record books, and other similar records of Parent, complete copies of which have been made available to Company, have been properly kept and contain no inaccuracies except for inaccuracies that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent.

3.13 **Real Property**. Schedule 3.13 lists all real property leased by Parent. Parent does not own any real property. Parent has good and valid title to all of its leaseholds and other interests free and clear of all Liens, except for such Liens which do not detract from the value or interfere with the present use of the property subject thereto or affected thereby. The real property to which such leaseholds and other interests pertain constitutes all of the real property used in Parent's business.

3.14 **Insurance**. The insurance policies obtained and maintained by Parent that are material to Parent are in full force and effect, all premiums due and payable thereon have been paid (other than retroactive or retrospective premium adjustments that Parent is not currently required, but may in the future be required, to pay with respect to any period ending prior to the Effective Date), and Parent has received no written notice of cancellation or termination with respect to any such policy that has not been replaced on substantially similar terms prior to the date of such cancellation.

3.15 **Environmental Matters**.

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(a) To its Knowledge, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on Parent, (i) Parent has not transported, handled, treated, stored, used, manufactured, distributed, disposed of, released or exposed its employees or others to any Hazardous Materials in violation of any applicable law, and (ii) Parent has not engaged in any Hazardous Materials Activities in violation of any applicable law, rule, regulation, treaty or statute promulgated by any Governmental Authority in effect prior to or as of the date hereof to prohibit, regulate or control Hazardous Materials or any Hazardous Material Activity.

(b) There is no Environmental Claim pending or, to the Knowledge of Parent, threatened as of the Effective Date against Parent that will have a Material Adverse Effect on Parent or will have a Material Adverse Effect on the ability of Parent to consummate the transactions contemplated herein.

(c) Parent has complied and is in compliance, in each case in all material respects, with all applicable laws, rules, regulations, treaties and statutes promulgated by any Governmental Authority in effect prior to or as of the date hereof to prohibit, regulate or control Hazardous Materials or any Hazardous Material Activity.

3.16 **Absence of Certain Developments**. Except as set forth on Schedule 3.16 or as disclosed in the Parent SEC Filings or as otherwise contemplated by this Agreement, since the Latest Parent Balance Sheet, Parent conducted its business only in the ordinary course consistent with past practice and there has not occurred:

(a) any event having a Material Adverse Effect on Parent or Merger Subsidiary;

(b) any event that would reasonably be expected to prevent or materially delay the performance of Parent's obligations pursuant to this Agreement;

(c) any material change by Parent in its accounting methods, principles or practices;

(d) any declaration, setting aside or payment of any dividend or distribution in respect of the shares of capital stock of Parent or Merger Subsidiary or any redemption, purchase or other acquisition of any of Parent's or Merger Subsidiary's securities;

(e) any increase in the compensation or benefits or establishment of any bonus, insurance, severance, deferred-compensation, pension, retirement, profit-sharing, stock-option, stock-purchase or other employee-benefit plan of Parent or Merger Subsidiary (including without limitation the granting of stock options, stock-appreciation rights, performance awards or restricted stock awards), or any other increase in the compensation payable or to become payable to any employees, officers, consultants or directors of Parent or Merger Subsidiary;

(f) any issuance, grants or sale of any stock, options, warrants, notes, bonds or other securities, or entry into any agreement with respect thereto by Parent or Merger Subsidiary;

(g) any amendment to the Articles of Incorporation or bylaws of Parent or the Certificate of Incorporation or bylaws, if any, of Merger Subsidiary;

(h) other than in the ordinary course of business consistent with past practice, any (1) capital expenditures by Parent or Merger Subsidiary, (2) purchase, sale, assignment or transfer of any material assets by Parent or Merger Subsidiary, (3) mortgage, pledge or existence of any lien, encumbrance or charge on any material assets or properties, tangible or intangible of Parent or Merger Subsidiary, except for liens for taxes not yet due and such other liens, encumbrances or charges which do not, individually or in the aggregate, have a Material Adverse Effect on Parent, or (4) cancellation, compromise, release or waiver by Parent or Merger Subsidiary of any rights of material value or any material debts or claims;

(i) any incurrence by Parent or Merger Subsidiary of any material liability (absolute or contingent), except for current liabilities and obligations incurred in the ordinary course of business consistent with past practice;

(j) damage, destruction or similar loss, whether or not covered by insurance, materially affecting the business or properties of Parent;

(k) entry by Parent or Merger Subsidiary into any agreement, contract, lease or license other than in the ordinary course of business consistent with past practice;

(l) any acceleration, termination, modification or cancellation of any agreement, contract, lease or license to which Parent or Merger Subsidiary is a party or by which any of them is bound;

(m) entry by Parent or Merger Subsidiary into any loan or other transaction with any officers, directors or employees of Parent or Merger Subsidiary;

(n) any charitable or other capital contribution by Parent or Merger Subsidiary or pledge therefor;

(o) entry by Parent or Merger Subsidiary into any transaction of a material nature other than in the ordinary course of business consistent with past practice; or

(p) any negotiation or agreement by the Parent or Merger Subsidiary to do any of the things described in the preceding clauses (a) through (o).

3.17 **Employee Benefit Plans**.

(a) Parent has no “employee-benefit plans” within the meaning of ERISA Section 3(3), and Parent has no bonus, stock-option, stock-purchase, stock-appreciation right, incentive, deferred-compensation, supplemental-retirement,

severance, or fringe-benefit plans, programs, policies or arrangements. Parent does not have, and has never had, any agreement, plan or other arrangement for the benefit of any independent contractor serving Parent that is or was treated as a nonqualified deferred compensation plan under Code Section 409A. No current or former director, officer, employee or independent contractor of Parent will become entitled to retirement, severance, unemployment compensation or similar benefits or to enhanced or accelerated benefits (including any acceleration of vesting or lapsing of restrictions with respect to equity-based awards and increases in the amount of compensation or benefits due to any such Person) under any contract, commitment or arrangement as a result of consummation of the transactions contemplated by this Agreement.

3.18 **Employees**.

(a) Schedule 3.18(a) lists, as of the Effective Date, the name, position, base compensation and, for calendar year 2018, total compensation for each employee of Company.

(b) Except as otherwise set forth in Schedule 3.18(b), or as contemplated by this Agreement, to the Knowledge of Parent, (i) neither any executive employee of Parent nor any group of the employees of Parent has any plans to terminate his, her or its employment; (ii) Parent has no material labor relations problem pending and its labor relations are satisfactory; (iii) there are no workers' compensation claims pending against Parent nor is Parent aware of any facts that would give rise to such a claim; (iv) no employee of Parent is subject to any secrecy or noncompetition agreement or any other agreement or restriction of any kind that would impede in any way the ability of such employee to carry out fully all activities of such employee in furtherance of the business of Parent; and (v) no employee or former employee of Parent has any claim with respect to any intellectual property rights of Parent.

3.19 **Proprietary Information and Inventions**. Set forth on Schedule 3.19 is a complete and accurate list of all current Parent employees, consultants, contractors or other Persons that are subject to a non-disclosure agreement or an alternative employment agreement with Parent containing comparable non-disclosure provisions.

3.20 **Intellectual Property**. Set forth on Schedule 3.20 is a complete and accurate list of all Intellectual Property (as defined in Section 2.20) owned or licensed by Parent, and accurately identifies all Persons from which or to which Parent licenses all such listed Intellectual Property.

3.21 **Tax-Free Reorganization**. Neither Parent nor, to Parent's Knowledge, any of its Affiliates has taken or agreed to take any action that would prevent the Merger from qualifying as a reorganization under Section 368(a) of the Code.

3.22 **Full Disclosure**. The representations and warranties of each of Parent and Merger Subsidiary contained in this Agreement (and in any schedule, exhibit, certificate or other instrument to be delivered under this Agreement) do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which such statements were made, not misleading. There is no fact of which Parent or Merger Subsidiary has Knowledge that has not been disclosed to Company in the Parent SEC Filings or pursuant to this Agreement, including the schedules hereto, all taken together as a whole, which has had or would reasonably be expected to have a Material Adverse Effect on Parent or Merger Subsidiary, or materially adversely affect the ability of Parent or Merger Subsidiary to consummate in a timely manner the transactions contemplated hereby.

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