

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported): **September 14, 2005**

CERTEGY INC.

(Exact name of Registrant as Specified in its Charter)

Georgia
(State or other Jurisdiction of
Incorporation or Organization)

001-16427
(Commission File
Number)

58-2606325
(IRS Employer
Identification No.)

100 Second Avenue South, Suite 1100S
St. Petersburg, Florida
(Address of principal executive offices)

33701
(Zip code)

Registrant's telephone number, including area code: **(727) 227-8000**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2.):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

On September 14, 2005, Certegy Inc., a Georgia corporation ("Certegy"), entered into an Agreement and Plan of Merger (the "Merger Agreement") among Certegy, C Co Merger Sub, LLC, a Delaware limited liability company and a wholly-owned subsidiary of Certegy ("Merger Sub"), and Fidelity National Information Services, Inc. ("FIS"), a Delaware corporation and a majority-owned subsidiary of Fidelity National Financial, Inc., a Delaware corporation ("FNF"). The Merger Agreement provides that, upon the terms and subject to the conditions set forth therein, FIS will merge with and into Merger Sub, with Merger Sub continuing as the surviving entity as a wholly-owned subsidiary of Certegy (the "Merger"). At the effective time of the Merger, Certegy will change its name to Fidelity National Information Services, Inc.

The Merger Agreement

At the effective time and as a result of the Merger, each share of FIS common stock, par value \$0.0001 per share, issued and outstanding immediately prior to the Effective Time will be converted automatically into the right to receive 0.6396 shares of Certegy's common stock, par value \$0.01 per share ("Certegy Stock"). As a result of the Merger, it is anticipated that FNF and the other FIS stockholders (collectively, the "FIS Stockholders") will own, on a fully-diluted basis, approximately 67.5% of the total outstanding Certegy Stock with FNF owning approximately 50.3%.

The approximately 132 million shares of Certegy Stock to be issued to FIS Stockholders in the Merger will not be registered under the Securities Act of 1933, as amended (the "Securities Act"), but instead will be issued in a private placement exempt from registration under Section 4(2) of the Securities Act and Regulation D promulgated thereunder. Certegy and the FIS Stockholders will enter into a registration rights agreement in connection with the closing of the Merger providing for certain registration rights in favor of the FIS Stockholders with respect to their shares of Certegy Stock.

The Merger Agreement provides that Certegy will declare and pay a special dividend of \$3.75 per share to existing Certegy shareholders prior to the Merger. Certegy's options, restricted shares and restricted stock units will fully vest, and will remain outstanding or be paid in accordance with the terms of the plans and agreements under which they were issued. All Certegy options, restricted shares and restricted stock units will be adjusted for the special dividend. Certegy will also assume FIS's outstanding options and option plan and convert them into options for Certegy Stock, subject to adjustments described in the Merger Agreement.

After the Merger, William P. Foley, II, the Chairman and Chief Executive Officer of FNF, will be the Chairman of Certegy's Board of Directors. Certegy's current Chairman and Chief Executive Officer, Lee A. Kennedy, will continue as a director and as Certegy's Chief Executive Officer. Certegy's Board of Directors will change upon the effective time of the Merger as described under the heading "The Shareholders Agreement" in this Item 1.01.

Certegy and FIS have made customary representations, warranties, and covenants in the Merger Agreement, including, among others, covenants (i) to conduct their respective businesses in the ordinary course consistent with past practice during the interim period between the execution of the Merger Agreement and consummation of the Merger, (ii) not to engage in certain kinds of transactions during such period, (iii) subject to certain exceptions, to cause a shareholder meeting to be held by Certegy to consider approval of the Merger and certain other transactions contemplated by the Merger Agreement and (iv) that, subject to certain exceptions,

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the Certegy Board of Directors will recommend approval by its shareholders of the Merger Agreement. In addition, Certegy made certain additional customary covenants, including, among others, covenants not to: (i) solicit proposals relating to alternative business combination transactions or (ii) subject to certain exceptions, enter into discussions concerning or provide confidential information in connection with any proposals for alternative business combination transactions.

Consummation of the Merger is subject to customary conditions, including (i) approval of Certegy's shareholders, (ii) absence of any injunction or order prohibiting the closing, and (iii) expiration or termination of the Hart-Scott-Rodino waiting period. In addition, each party's obligation to consummate the Merger is subject to certain other conditions, including (a) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (b) material compliance of the other party with its covenants and (c) the delivery of customary opinions from counsel to FIS and counsel to Certegy that the Merger will qualify as a tax-free reorganization for federal income tax purposes.

The Merger Agreement contains certain termination rights for both FIS and Certegy, and further provides that, upon termination of the Merger Agreement under specified circumstances, Certegy may be required to pay FIS transaction expenses of up to \$10 million or a termination fee of \$ 65 million.

The Shareholders Agreement

In connection with the Merger, on September 14, 2005, Certegy and the FIS Stockholders entered into a Shareholders Agreement (the "Shareholders Agreement") which places certain post-Merger restrictions on FNF and the other FIS Stockholders and makes certain arrangements concerning the post-Merger governance of Certegy. The Shareholders Agreement, among other things, (i) places certain restrictions on the acquisition or disposition of Certegy Shares by the FIS Shareholders; (ii) places certain conditions upon FNF's ability to effectuate a "going-private" transaction with Certegy; (iii) provides that the Board of Directors of Certegy upon the effective time of the Merger will consist of four directors designated by the existing Certegy Board (including Certegy's current Chairman and Chief Executive Officer, Lee A. Kennedy), four directors designated by FNF (including William P. Foley, II, the Chairman and Chief Executive Officer of FNF) and two directors designated by two existing FIS minority stockholders; and (iv) provides that so long as FNF holds at least 30% of the total outstanding Certegy Stock, Certegy may not, without FNF's consent, engage or terminate a Chief Executive Officer or Chief Financial Officer or adopt an annual budget.

The Commitment Agreement

In connection with the Merger, on September 14, 2005, Certegy and the FIS Stockholders entered into a Commitment Agreement (the "Commitment Agreement") pursuant to which the FIS Stockholders agreed to execute and deliver, immediately after the execution and delivery of the Merger Agreement, a written consent adopting the Merger Agreement, and thereafter, to refrain from revoking, modifying or taking any other action in conflict with, such consent. The FIS Stockholders also agreed that, subject to customary exceptions, they will

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not transfer any of their shares of FIS stock pending consummation of the Merger. In addition, each of the FIS Stockholders agreed to generally support the Merger and the transactions contemplated by the Merger Agreement.

The Employment Agreements

On September 14, 2005, Lee A. Kennedy and Jeffrey S. Carbiener entered into employment agreements with Certegy. These agreements will replace and terminate their amended change in control letter agreements dated May 16, 2002 (the "Prior CIC Agreements"). The Prior CIC Agreements are described below in Item 1.02 of this report. In consideration of the termination of the Prior CIC Agreements, Messrs. Kennedy and Carbiener will be entitled to cash payments of \$6.25 million and \$500,000, respectively, payable upon the closing of the Merger.

Pursuant to his Employment Agreement, Mr. Kennedy will continue to serve as Chief Executive Officer of Certegy starting at an annual base salary of \$750,000 per year. He is entitled to an annual incentive bonus opportunity, with the target bonus opportunity to be not less than 200% of his annual base salary. On the closing date of the Merger, the agreement provides that Mr. Kennedy will be granted options to acquire 750,000 shares of Certegy Stock at an exercise price per share equal to the closing price of Certegy Stock on the New York Stock Exchange on such date. Such options will vest in three equal annual installments beginning on the first anniversary of the closing and will expire on the eighth anniversary. He is also eligible for other customary benefits for executives.

The initial term of Mr. Kennedy's Employment Agreement is four years. If Certegy terminates Mr. Kennedy for any reason other than for "cause" or for Mr. Kennedy's disability, or if Mr. Kennedy terminates his employment for "good reason", or for any reason during the one-year period following a change in control of Certegy, Mr. Kennedy will be entitled to benefits described in the agreement, including a lump-sum payment equal to three times the sum of his base salary and the highest annual bonus paid to him in the preceding three years (or, if higher, the target bonus opportunity in the year of termination), and the immediate vesting of all options, restricted stock and other equity-based incentives.

Mr. Carbiener's Employment Agreement is generally similar to Mr. Kennedy's, with the following distinctions. Mr. Carbiener's agreement provides for \$400,000 in initial annual base salary, an annual incentive bonus opportunity to be not less than 200% of his annual base salary, and 350,000 options with the same terms as Mr. Kennedy's. The initial term of Mr. Carbiener's agreement is three years. If Certegy terminates Mr. Carbiener without "cause" or if Mr. Carbiener terminates his employment because of a change in control of Certegy, he is entitled to the continuation of his salary through the remaining term of his agreement and the acceleration of vesting of the options granted him under his agreement, to the extent permitted by the terms of the options. If he is terminated for disability or dies, he or his estate, as applicable, is entitled to a lump-sum payment equal to his salary for the remaining term of his agreement.

The Employment Agreements are not effective until the effective time of the Merger, and terminate immediately if the Merger Agreement is terminated in accordance with its terms prior to the effective time.

The Rights Agreement Amendment

Also on September 14, 2005, Certegy and SunTrust Bank, a Georgia banking corporation in its capacity as rights agent (the "Rights Agent") entered into an Amendment to Rights Agreement (the "Rights Agreement Amendment") amending the Rights Agreement dated as of June 29, 2001 between Certegy and the Rights Agent (the "Rights Agreement"). Each right issued pursuant to the Rights Agreement represents the right, upon becoming exercisable, to purchase one share of Certegy Stock upon the terms and conditions set forth in the Rights Agreement. The rights are intended to have anti-takeover effects. If the rights become exercisable, the rights will cause substantial dilution to a person or group that attempts to acquire or merge with Certegy.

The Rights Agreement Amendment generally exempts the Merger Agreement and the transactions contemplated thereby, permitting the Merger to be consummated without causing the rights issued under the Rights Agreement to become exercisable or otherwise triggering the Rights Agreement. If for any reason the Merger Agreement is terminated and the Merger is abandoned, then the Rights Agreement Amendment shall be of no further force and effect and the Rights Agreement shall remain as it existed immediately prior to execution of the Rights Agreement Amendment.

General

The foregoing summaries of the Merger Agreement, the Shareholders Agreement, the Commitment Agreement, the Employment Agreements, and the Rights Agreement Amendment do not purport to be complete, and are qualified in their entirety by reference to the full text of the agreements and amendments filed as exhibits to this report, and in the case of the Rights Agreement, filed as Exhibit 4.3 to Certegy's Current Report on Form 8-K filed July 20, 2001 (File No. 001-16427), which are all incorporated herein by this reference. In the event of any conflict between the foregoing summaries and the full text of the agreements, the text of such agreements shall control.

ITEM 1.02 TERMINATION OF A MATERIAL DEFINITIVE AGREEMENT

As stated in Item 1.01 above under the heading "The Employment Agreements", Mr. Kennedy's and Mr. Carbiener's Employment Agreements replace and terminate their respective Prior CIC Agreements. The forms of the Prior CIC Agreements for Messrs. Kennedy and Carbiener are filed as Exhibits 10.11(a) and 10.12(a), respectively, to Certegy's Annual Report on Form 10-K filed February 17, 2004 (File No. 001-16427). The Prior CIC Agreements generally provided that if a change in control of Certegy occurred, and the executive's employment terminated within six months prior to, or three years after, the date of the change in control, other than from death, disability, termination for cause, or voluntary termination other than for good reason, the executive would be entitled to a severance payment and other benefits described in the agreements. The severance payment would equal up to, in the case of Mr. Kennedy, three times, and Mr. Carbiener, two times, the sum of that executive's highest annual salary for the twelve months prior to the termination, and the executive's highest annual bonus (or target bonus) in the three years prior to termination or the partial year ending on the date of termination.

The foregoing summary of the Prior CIC Agreements does not purport to be complete, and is qualified in its entirety by reference to the full text of the forms of the agreements, which are incorporated herein by this reference. In the event of any conflict between the foregoing summary and the full text of the Prior CIC Agreements, the text of such agreements shall control.

ITEM 3.02 UNREGISTERED SALES OF EQUITY SECURITIES

The first three paragraphs under Item 1.01 of this report are hereby incorporated by reference in response to this Item 3.02.

ITEM 3.03 MATERIAL MODIFICATION TO RIGHTS OF SECURITY HOLDERS

The disclosure under the headings "The Rights Agreement Amendment" and "General" (insofar as it relates to the Rights Agreement or the Rights Agreement Amendment) set forth under Item 1.01 of this report, and the definitions of any defined terms defined in Item 1.01 and used under such headings, is hereby incorporated by reference in response to this Item 3.03.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
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- 2.1 Agreement and Plan of Merger among Certegy Inc., C Co Merger Sub, LLC and Fidelity National Information Services, Inc. dated as of September 14, 2005
- 4.1 Shareholders Agreement dated September 14, 2005 among Certegy Inc., Fidelity National Financial, Inc. and the other parties thereto
- 4.2 Amendment to Rights Agreement dated as of September 14, 2005 by and between Certegy Inc. and SunTrust Bank as Rights Agent
- 10.1 Commitment Agreement dated as of September 14, 2005 among Certegy Inc. and the stockholders of Fidelity National Information Services, Inc. parties thereto
- 10.2 Employment Agreement dated as of September 14, 2005 by and between Certegy Inc. and Lee A. Kennedy
- 10.3 Employment Agreement dated as of September 14, 2005 by and between Certegy Inc. and Jeffrey S. Carbiener

SIGNATURES

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

CERTEGY INC.

By: /s/Walter M. Korchun
Walter M. Korchun
Executive Vice President, General Counsel and
Secretary

Date: September 15, 2005

AGREEMENT AND PLAN OF MERGER

among

CERTEGY INC.

C CO MERGER SUB, LLC

and

FIDELITY NATIONAL INFORMATION SERVICES, INC.

Dated as of September 14, 2005

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EXHIBITS:

Exhibit A	Form of Amended and Restated Articles of Incorporation of C Co
Exhibit B	Form of Commitment Agreement
Exhibit C	Form of Shareholders Agreement
Exhibit D	Form of Registration Rights Agreement
Exhibit E	Form of Lock-Up Agreement
Exhibit F	Forms of Employment Agreements and Change in Control Terminations
Exhibit G	Forms of Tax Representation Certificates
Exhibit H	Form of Amended and Restated Bylaws of C Co
Exhibit I	Form of Written Consent of Stockholders

SCHEDULES:

6.15(a)	Certain Terminating F Co Contracts
6.15(b)	Certain Continuing F Co Contracts
6.16	Amendments to Intercompany Agreements

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of September 14, 2005 (this “*Agreement*”), among Certegy Inc., a Georgia corporation (“*C Co*”) C Co Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of C Co (“*Merger Co*”), and Fidelity National Information Services, Inc., a Delaware corporation (“*F Co*”).

WHEREAS, the sole manager and member of Merger Co has deemed it in the best interests of Merger Co, and the Board of Directors of F Co has deemed it in the best interests of the corporation and its stockholders to consummate the merger of F Co with and into Merger Co (the “*Merger*”), on the terms and subject to the conditions set forth in this Agreement and in accordance with the General Corporation Law of the State of Delaware (the “*DGCL*”) and the Delaware Limited Liability Company Act (the “*DLLCA*”);

WHEREAS, the Board of Directors of C Co (the “*C Co Board*”) has resolved to recommend to C Co’s shareholders that they approve (i) this Agreement, the Merger and the issuance of the shares of common stock of C Co, par value \$.01 per share (“*C Co Common Stock*”) to be issued to the stockholders of F Co in connection with the Merger (the “*Share Issuance*”) and (ii) an amendment and restatement of the Articles of Incorporation of C Co to be effected contemporaneously with the consummation of the Merger such that, after giving effect thereto, the Articles of Incorporation of C Co shall be substantially in the form attached hereto as **Exhibit A** (the “*Articles Amendment*”) and the name of C Co shall be “Fidelity National Information Services, Inc.”;

WHEREAS, C Co, as the sole manager of Merger Co, has approved this Agreement and declared its advisability, and as the sole member of Merger Co, has approved the Merger;

WHEREAS, the Board of Directors of F Co (the “*F Co Board*”) has approved this Agreement and declared its advisability;

WHEREAS, contemporaneously with the execution and delivery of this Agreement, F Co and each of the stockholders of F Co will enter into an agreement in the form attached hereto as **Exhibit B**, pursuant to which F Co and its stockholders will, among other things, agree not to solicit or engage in

discussions or negotiations with any person regarding an acquisition or business combination of F Co with any person other than C Co. (the “*Commitment Agreement*”);

WHEREAS, contemporaneously with the execution and delivery of this Agreement, C Co and certain stockholders of F Co will enter into an agreement in the form attached hereto as **Exhibit C** which will become effective as of the Closing (as amended, supplemented, restated or otherwise modified from time to time, the “*Shareholders Agreement*”) to establish certain arrangements with respect to the shares of C Co Common Stock to be issued in the Merger, as well as restrictions on certain activities in respect of the C Co Common Stock, corporate governance and other related corporate matters;

WHEREAS, it is contemplated that prior to the Closing, C Co will declare, subject to the terms and conditions of this Agreement, a one-time special cash dividend (the “*Special Dividend*”) on the C Co Common Stock in an amount not to exceed \$3.75 per share of C Co Common Stock to record holders of C Co Common Stock and will pay or provide for payment of such Special Dividend immediately prior to the Effective Time; and

WHEREAS, it is intended that, for U.S. federal income tax purposes, the Merger shall qualify as a reorganization under Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended (the “*Code*”), that this Agreement shall constitute a plan of reorganization under Section 368(a) of the Code and C Co and F Co shall each be a party to such reorganization within the meaning of the Code.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, C Co, Merger Co and F Co hereby agree, subject to the conditions herein contained, as follows:

ARTICLE I THE MERGER

SECTION 1.01 *The Merger.* Upon the terms and subject to the conditions set forth in *Article VII* and elsewhere in this Agreement, and in accordance with the DLLCA and the DGCL, at the Effective Time, F Co shall be merged with and into Merger Co. At the Effective Time, the separate corporate existence of F Co shall cease and Merger Co shall continue as the surviving entity of the Merger and a wholly owned subsidiary of C Co (the “*Surviving Company*”).

SECTION 1.02 *Closing.* Unless this Agreement shall have been terminated in accordance with *Section 8.01*, and subject to the satisfaction or waiver of the conditions set forth in *Article VII*, the closing of the Merger (the “*Closing*”) will take place at 11:00 a.m., Eastern Time, on a date to be specified by the parties, which shall be no later than the second business day following the satisfaction or waiver of the conditions set forth in *Article VII* (other than those that by their terms are to be satisfied or waived at the Closing, but subject to satisfaction or waiver of those conditions), at the executive offices of F Co, 601 Riverside Avenue, Jacksonville, FL 32204, unless another time, date and/or place is agreed to in writing by C Co and F Co (the date on which the Closing occurs, the “*Closing Date*”).

SECTION 1.03 *Effective Time.* Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, the parties shall (a) file a certificate of merger in such form as is required by, and executed and acknowledged in accordance with, the relevant provisions of the DLLCA and the DGCL (the “*Certificate of Merger*”), and (b) make all other filings or recordings required under the DLLCA and the DGCL to effect the Merger. The Merger shall become effective at such date and time as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware, or at such subsequent date and time as C Co and F Co shall agree and specify in the Certificate of Merger. The date and time at which the Merger becomes effective is referred to in this Agreement as the “*Effective Time*”.

SECTION 1.04 *Effect of the Merger.* At the Effective Time, the effect of the Merger shall be as provided in Section 18-209 of the DLLCA and Section 259 of the DGCL and this Agreement.

SECTION 1.05 *Certificate of Formation and LLC Agreement.*

(a) ***Certificate of Formation.*** The Certificate of Formation of Merger Co, as in effect immediately prior to the Effective Time, shall be the certificate of formation of the Surviving Company, except that the name of the Surviving Company shall be F Co, LLC, and as so amended, such certificate of formation shall be the certificate of formation of the Surviving Company until thereafter amended in accordance with the provisions thereof and as provided by applicable law.

(b) ***LLC Agreement.*** The limited liability company agreement of Merger Co as in effect immediately prior to the Effective Time shall be the limited liability company agreement of the Surviving Company until thereafter changed or amended as provided therein or by applicable law.

SECTION 1.06 *Managers and Officers of Surviving Company.* The initial manager of the Surviving Company shall be C Co, to hold office in accordance with the certificate of formation and limited liability company agreement of the Surviving Company, and the initial officers of the Surviving Company shall be the officers of F Co immediately prior to the Effective Time, in each case until their respective successors are duly elected or appointed and qualified or until the earlier of their death, resignation or removal.

ARTICLE II CONVERSION OF SECURITIES; EXCHANGE OF CERTIFICATES

SECTION 2.01 *Conversion of Securities.* At the Effective Time, by virtue of the Merger and without any action on the part of C Co, Merger Co, F Co or any holder of any securities of any of C Co, Merger Co or F Co, the following shall occur:

(a) ***Conversion of F Co Common Stock.*** Each share of common stock of F Co, \$0.0001 par value per share (“*F Co Common Stock*”) (all issued and outstanding shares of such common stock of F Co being hereinafter collectively referred to as the “*Shares*”) issued and outstanding immediately prior to the Effective Time (other than any Shares to be canceled pursuant to *Section 2.01(b)*) shall be converted automatically into the right to receive 0.6396 (as it may be adjusted pursuant to *Section 2.02*, the “*Exchange Ratio*”) shares of C Co Common Stock upon surrender in the manner provided in *Section 2.03* of the certificate that formerly evidenced such share of F Co Common Stock.

(b) ***Cancellation of Certain Shares of F Co Common Stock.*** Each Share held in the treasury of F Co, and each Share directly owned by C Co, Merger Co or any direct or indirect wholly-owned subsidiary of C Co, Merger Co or F Co immediately prior to the Effective Time shall automatically be canceled without any conversion thereof and no payment or distribution shall be made with respect thereto.

(c) *Membership Interests of Merger Co.* Each membership interest in Merger Co issued and outstanding immediately prior to the Effective Time shall remain outstanding and shall be the only outstanding membership interests of the Surviving Company.

(d) *Fractional Shares.* No fractional shares of C Co Common Stock shall be issued in connection with the Merger, and no certificates or scrip for any such fractional shares shall be issued. Any holder of F Co Common Stock who would otherwise be entitled to receive a fraction of a share of C Co Common Stock (after aggregating all fractional shares of C Co Common Stock issuable to such holder) shall, in lieu of such fraction of a share and upon surrender of such holder's certificates that formerly evidenced shares of F Co Common Stock, be paid in cash the dollar amount (rounded to the nearest whole cent), without interest, determined by multiplying such fraction by the closing price of a share of C Co Common Stock on the New York Stock Exchange (the "NYSE") on the date that the Merger becomes effective.

SECTION 2.02 Adjustments to Exchange Ratio. If, between the date of this Agreement and the Effective Time, there is a reclassification, recapitalization, stock split, stock dividend, subdivision, combination or exchange of shares with respect to, or rights issued in respect of, the Shares or the outstanding shares of C Co Common Stock, except as expressly contemplated by this Agreement, the Exchange Ratio shall be adjusted equitably.

SECTION 2.03 Exchange of Certificates.

(a) *Exchange Procedures.* At the Closing, in exchange for certificates for C Co Common Stock and cash in lieu of fractional shares pursuant to *Section 2.01(d)*, each holder of Shares shall deliver to C Co certificates representing the Shares ("*Certificates*") owned by such holder, duly endorsed in blank or accompanied by stock powers duly endorsed in blank in proper form for transfer. Upon surrender to C Co of a Certificate for cancellation, the holder of such Certificate shall be entitled to receive in exchange therefor a certificate representing that number of whole shares of C Co Common Stock (after taking into account all Certificates surrendered by such holder) to which such holder is entitled pursuant to *Section 2.01(a)* and payment in lieu of fractional shares to which such holder is entitled pursuant to *Section 2.01(d)*, and the Certificate so surrendered shall forthwith be cancelled. Until surrendered as contemplated by this *Section 2.03(a)* each Certificate shall be deemed at all times after the Effective Time to represent only the right to receive upon such surrender shares of C Co Common Stock pursuant to *Section 2.01(a)* and cash in lieu of fractional shares pursuant to *Section 2.01(d)*. No interest shall be paid or

will accrue on any cash payable in lieu of fractional shares to holders of Certificates pursuant to the provisions of this *Article II*.

(b) *No Liability.* Neither C Co nor the Surviving Company shall be liable to any holder of Shares for any such Shares (or dividends or distributions with respect thereto), or cash delivered to a public official pursuant to any abandoned property, escheat or similar law.

(c) *Withholding Rights.* Each of C Co and the Surviving Company shall be entitled to deduct and withhold from any consideration otherwise payable pursuant to this Agreement to any holder of Shares such amounts as it is required to deduct and withhold with respect to such payment under all applicable Tax laws and pay such withholding amount over to the appropriate taxing authority. To the extent that amounts are so properly withheld by C Co or the Surviving Company, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the Shares in respect of which such deduction and withholding was made by C Co or the Surviving Company, as the case may be.

(d) *Lost, Stolen or Damaged Certificates.* If any Certificate shall have been lost, stolen, defaced or destroyed, C Co may, in its reasonable discretion and as a condition to the issuance of any certificate representing shares of C Co Common Stock, require the owner of such lost, stolen, defaced or destroyed Certificate to make an affidavit of that fact and to post a bond, in such reasonable amount as C Co may direct, as indemnity against any claim that may be made against it or the Surviving Company with respect to such Certificate.

SECTION 2.04 Treatment of Stock Options and Other Equity-Based Awards.

(a) *Assumption of F Co Stock Options.* Subject to *Section 2.04(b)*, at the Effective Time, all rights with respect to F Co Common Stock under each F Co Stock Option then outstanding shall be converted into and become rights with respect to C Co Common Stock, and C Co shall assume the F Co Stock Option Plan and each such F Co Stock Option in accordance with the terms (as in effect as of the date of this Agreement) of the F Co Stock Option Plan and the terms of the stock option agreement by which it is evidenced. From and after the Effective Time, (i) each F Co Stock Option assumed by C Co may be exercised solely for shares of C Co Common Stock, (ii) the number of shares of C Co Common Stock subject to each such F Co Stock Option shall be equal to the number of shares of F Co Common Stock subject to such F Co Stock Option immediately prior to the Effective Time multiplied by the Exchange Ratio, as it may be adjusted pursuant to *Section 2.02*, rounding down to the nearest whole share, (iii) the per share exercise price under each such F Co Stock Option shall be adjusted by dividing the per share exercise price under such F Co Stock Option by the Exchange Ratio, as it may be adjusted pursuant to *Section 2.02*, rounding up to the nearest whole cent and (iv) any restriction on the exercise of any such F Co Stock Option shall continue in full force and effect and the term, exercisability, vesting schedule and other provisions of such F Co Stock Option shall otherwise remain unchanged; *provided, however*, that each F Co Stock Option assumed by C Co in accordance with this *Section 2.04(a)* shall, in accordance with its terms, be subject to further adjustment as appropriate to reflect any stock split, stock dividend, reverse stock split, reclassification, recapitalization or other similar transaction subsequent to the Effective Time. In the case of any F Co Stock Option to which this *Section 2.04(a)* applies, the option exercise price, the number of shares of C Co Common Stock purchasable pursuant to such option and the terms and conditions of exercise of such option shall be determined in order to comply with *Section 424(a)* of the Code for purposes of *Section 421* of the Code to the extent such section applies to F Co Stock Options and for purposes of *Section 409A* of the Code such that the substitution or assumption of F Co Options will not be treated as the grant of a new option or change in the form of payment for purposes of *Section 409A* of the Code. As soon after the Effective Time as practicable, C Co shall file with the SEC a registration statement on Form S-8 relating to the shares of C Co Common Stock issuable with respect to the F Co Stock Options assumed by C Co in accordance with this *Section 2.04(a)*.

(b) *F Co Action.* Prior to the Effective Time, F Co shall take all commercially reasonable action that may be necessary (under the plans pursuant to which F Co Stock Options are outstanding and otherwise) to effectuate the provisions of this *Section 2.04* and to ensure that, from and after the Effective Time, holders of F Co Stock Options have no rights with respect thereto other than those specifically provided in this *Section 2.04*. F Co shall take all commercially reasonable action to administer, and shall have the power to make determinations with respect to, the F Co Stock Option Plan, including the terms of vesting of performance options, in accordance with the terms of such plan and the grants thereunder.

(c) *C Co Stock Options and Equity Based Awards.* C Co Stock Options, restricted shares of C Co Common Stock and C Co Restricted Stock Units shall fully vest at the Closing, and shall remain outstanding or be paid in accordance with the terms of the C Co Stock Option Plan and the related

agreements, subject to adjustment for the Special Dividend as provided in Section 6.06.

SECTION 2.05 No Further Rights; Stock Transfer Books. At the Effective Time, the stock transfer books of F Co shall be closed, and there shall be no further registration of transfers of Shares issued and outstanding immediately prior to the Effective Time thereafter on the records of F Co. From and after the Effective Time, the holders of certificates representing Shares outstanding immediately prior to the Effective Time shall cease to have any rights with respect to such Shares, except as otherwise provided in this Agreement or by law. On or after the Effective Time, any Certificates presented to C Co for any reason shall be canceled against delivery of the consideration to which the holders thereof are entitled pursuant to Section 2.01(a) and Section 2.01(d), without interest.

SECTION 2.06 Tax Consequences. For federal income tax purposes, the Merger is intended to constitute a reorganization within the meaning of Section 368 of the Code. The parties hereby adopt 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.

SECTION 2.07 Securities Act Exemption and Compliance; Registration Rights.

(a) *Private Placement.* The C Co Common Stock to be issued pursuant to this Agreement initially will not be registered under the Securities Act in reliance on the exemptions from the registration requirements of Section 5 of the Securities Act set forth in Section 4(2) thereof and Regulation D promulgated thereunder.

(b) *Legends.* In addition to any legend imposed by applicable state securities laws, the Shareholders Agreement or by any other contract which continues in effect after the Effective Time, the certificates representing the shares of C Co Common Stock issued pursuant to this Agreement shall bear a restrictive legend (and stop transfer orders shall be placed against the transfer thereof with C Co’s transfer agent), stating substantially as follows:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”). THEY MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO, OR, AN OPINION OF COUNSEL, SATISFACTORY TO THE COMPANY, THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE ACT.”

(c) *Registration Rights.* The stockholders of F Co shall be entitled to the registration rights set forth in the Registration Rights Agreement to be executed and delivered by C Co and each of the stockholders of F Co at Closing in the form attached hereto as **Exhibit D** (the “*Registration Rights Agreement*”), in each case on the terms and subject to the conditions set forth therein.

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(d) *Lock-Up Agreement.* Contemporaneously with the execution and delivery of this Agreement, C Co and a certain stockholder F Co named therein has entered into an agreement in the form attached hereto as **Exhibit E** which will become effective as of the Closing (as amended, supplemented, restated or otherwise modified from time to time, the “*Lock-Up Agreement*”) to establish certain arrangements with respect to the shares of C Co Common Stock to be issued in the Merger, as well as restrictions on certain activities in respect of the C Co Common Stock.

**ARTICLE III
REPRESENTATIONS AND WARRANTIES OF
C CO**

Except as set forth in the disclosure schedule delivered by C Co to F Co concurrently with the execution and delivery of this Agreement (the “*C Co Disclosure Schedule*”) and subject to any information contained, or incorporated by reference in, any of the SEC Reports filed on or after January 1, 2004, C Co hereby represents and warrants to F Co as follows:

SECTION 3.01 Organization and Qualification; C Co Subsidiaries.

(a) *Organization and Qualification.* C Co and each subsidiary of C Co (each, a “*C Co Subsidiary*”) is a corporation, limited partnership, limited liability company or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization (except, in the case of good standing, for legal entities organized under the laws of any jurisdiction that does not recognize such concept). C Co and each C Co Subsidiary has the requisite corporate or entity power and authority to own, lease, or otherwise hold the assets and properties owned, leased, or otherwise held by it and necessary to carry on its business as presently conducted. C Co and each C Co Subsidiary is in good standing and is duly qualified to conduct business in each jurisdiction in which the nature of its business or the ownership of property make such qualification necessary, except where the failure to be so qualified would not reasonably be expected to have a C Co Material Adverse Effect.

(b) *List of C Co Subsidiaries.* A true and complete list of all the C Co Subsidiaries, together with the jurisdiction of organization of each C Co Subsidiary and the percentage of the outstanding capital stock (or other equity interest) of each C Co Subsidiary owned by C Co, each other C Co Subsidiary and any other person, is set forth in Section 3.01(b) of the *C Co Disclosure Schedule*. C Co does not, directly or indirectly, own any capital stock (or other equity interest) of any person other than the C Co Subsidiaries set forth on Section 3.01(b) of the *C Co Disclosure Schedule*. C Co is not a direct or indirect participant in any material joint venture or other equivalent arrangement.

(c) *Investments.* Section 3.01(b) of the *C Co Disclosure Schedule* also lists any and all persons of which C Co directly or indirectly owns an equity or similar interest, or an interest convertible into or exchangeable or exercisable for an equity or similar interest, of less than 50% (collectively, the “*C Co Investments*”). C Co or a C Co Subsidiary, as the case may be, owns all C Co Investments free and clear of all Liens, and there are no outstanding contractual obligations of C Co or any C Co Subsidiary permitting the repurchase, redemption or other acquisition of any of its interest in the C Co Investments or requiring C Co or any C Co Subsidiary to provide funds to, make any investment (in the form of a loan, capital contribution or otherwise) in, provide any guarantee with respect to, or assume, endorse or otherwise become responsible for the obligations of, any C Co Investment.

(d) The term “*C Co Material Adverse Effect*” means any change, circumstance, effect, event or occurrence that (i) would be materially adverse to the assets, liabilities, business, financial condition or results of operations of C Co and the C Co Subsidiaries taken as a whole, other than any change, circumstance, effect, event or occurrence resulting from (A) changes in general economic conditions affecting the United States, (B) general changes or developments in the C Co Industries in which C Co and the C Co Subsidiaries operate, (C) the announcement of this Agreement and the transactions

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contemplated hereby, including any termination of, reduction in or similar negative impact on relationships, contractual or otherwise, with any customers, suppliers, distributors, partners or employees of C Co and the C Co Subsidiaries to the extent due to the announcement and performance of this Agreement or the identity of the parties to this Agreement, or the performance of this Agreement and the transactions contemplated hereby, including compliance with the covenants set forth herein, unless, in the case of the foregoing clauses (A) and (B), such changes referred to therein have a materially disproportionate effect on C Co and the C Co Subsidiaries taken as a whole relative to other participants in the C Co Industries, or (ii) would have a material adverse effect on the ability of C Co to perform its respective obligations hereunder or under any Ancillary Agreement to which C Co is or will become a party, or to consummate the transactions contemplated hereby or thereunder on a timely basis. For purposes of this *Section 3.01(d)*, "C Co Industries" shall mean credit card and debit card processing and back-office support services to banks, credit unions, retailers and other third-party businesses and check cashing and check risk management and related processing products and services to businesses.

SECTION 3.02 Articles of Incorporation and Bylaws. C Co has made available to F Co a complete and correct copy of the Articles of Incorporation and the Bylaws (or comparable organizational documents), each as amended to date, of C Co and each C Co Subsidiary. Such Articles of Incorporation and Bylaws (or comparable organizational documents) are in full force and effect. Neither C Co nor any C Co Subsidiary is, nor has been, in violation of any of the provisions of its Articles of Incorporation or Bylaws (or comparable organizational documents). C Co has made available to F Co complete and correct copies of the minutes of all meetings of the C Co Board (and each committee thereof), other than the portion of any minutes regarding the deliberations of the C Co Board (or any committee thereof) in connection with entering into this Agreement or pursuing other strategic alternatives, and of the shareholders of C Co, in each case since the date of C Co's organization.

SECTION 3.03 Capitalization.

(a) *C Co Capitalization.* The authorized capital stock of C Co consists of 300,000,000 shares of C Co Common Stock, and 100,000,000 shares of preferred stock, par value \$.01 per share ("*C Co Preferred Stock*"). As of August 31, 2005, (i) 62,005,579 shares of C Co Common Stock are issued and outstanding (excluding shares of C Co Common Stock held in the treasury of C Co), all of which are duly authorized, validly issued, fully paid and nonassessable and were issued free of preemptive (or similar) rights, (ii) 7,266,022 shares of C Co Common Stock are held in the treasury of C Co, (iii) no shares of C Co Common Stock are held by the C Co Subsidiaries, and (iv) 6,636,322 shares of C Co Common Stock are reserved for future issuance in connection with the C Co Plans identified on *Schedule 3.03(a)(i) of the C Co Disclosure Schedule* (the "*C Co Stock Option Plans*") (including shares reserved for issuance pursuant to outstanding options granted pursuant to C Co Stock Option Plans ("*C Co Stock Options*") and outstanding restricted stock units awarded pursuant to C Co Stock Option Plans ("*C Co Restricted Stock Units*"). Since August 31, 2005 through the date of this Agreement, other than in connection with (i) the issuance of shares of C Co Common Stock pursuant to the exercise of C Co Stock Options outstanding as of August 31, 2005, (ii) the issuance of shares of C Co Common Stock upon the vesting of C Co Restricted Stock Units outstanding as of August 31, 2005, or (iii) the forfeiture of C Co Common Stock issued pursuant to restricted stock awards made pursuant to C Co Stock Option Plans, there has been no change in the number of shares of outstanding capital stock of C Co or the number of outstanding C Co Stock Options or C Co Restricted Stock Units. *Section 3.03(a)(ii) of the C Co Disclosure Schedule* sets forth, as of August 31, 2005, the number of shares of C Co Common Stock issuable upon exercise of outstanding C Co Stock Options granted under each C Co Stock Option Plan and the number of shares of C Co Common Stock issuable upon vesting of outstanding C Co Restricted Stock Units. As of the date of this Agreement, no shares of C Co Preferred Stock are issued and outstanding. *Section 3.03(a)(iii) of the C Co Disclosure Schedule* sets forth each C Co Stock Option and each C Co Restricted Stock Units outstanding as of

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August 31, 2005, the number of shares of C Co Common Stock issuable thereunder, and the expiration date and any applicable exercise price thereof.

(b) *Merger Co.* All the outstanding membership interests of Merger Co are owned, beneficially and of record, by C Co. Merger Co was formed solely for the purpose of the Merger, and except for obligations incurred in connection with its organization and the Merger, Merger Sub has not and will not have incurred, directly or indirectly, through any subsidiary or affiliate, any obligations or liabilities or engaged in any business activities of any type or kind whatsoever or entered into any Contracts with any Person.

(c) *Other Rights.* Except as set forth in *Section 3.03(a)*, and except for the rights (the "*C Co Rights*") issued pursuant to the Rights Agreement, dated as of June 29, 2001 (the "*C Co Rights Agreement*"), between C Co and SunTrust Bank, a Georgia banking corporation, as rights agent, in respect of which no Distribution Date (as defined in the C Co Rights Agreement) has occurred, there are no (i) subscriptions, calls, contracts, options, warrants or other rights, agreements, arrangements, understandings, restrictions or commitments of any character to which C Co or any C Co Subsidiary is a party or by which C Co or any C Co Subsidiary is bound relating to the issued or unissued capital stock of C Co or any C Co Subsidiary or obligating C Co or any C Co Subsidiary to issue or sell any shares of capital stock of, other equity interests in or debt securities of, C Co or any C Co Subsidiary, (ii) debt or equity securities of C Co or any C Co Subsidiary convertible, exchangeable or exercisable for shares of capital stock or voting securities of C Co or any C Co Subsidiary (or any other securities, which, whether after notice, lapse of time, or payment of monies, are or would be convertible into or exchangeable or exercisable for capital stock or voting securities of C Co or any C Co Subsidiary), or (iii) equity equivalents, stock appreciation rights, phantom stock, ownership interests in C Co or any C Co Subsidiary or similar rights. All shares of C Co Common Stock subject to issuance as set forth in *Section 3.03(a)*, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, will be duly authorized, validly issued, fully paid and nonassessable and free of preemptive (or similar) rights. There are no outstanding contractual obligations of C Co or any C Co Subsidiary to repurchase, redeem or otherwise acquire any outstanding securities of C Co or any C Co Subsidiary, to vote or to dispose of any shares of C Co Common Stock or any capital stock of any C Co Subsidiary or to make any investment (in the form of a loan, capital contribution or otherwise) in, any C Co Subsidiary or any other person. None of C Co or any C Co Subsidiary is a party to any shareholders agreement, voting trust agreement or registration rights agreement relating to any equity securities of C Co or any C Co Subsidiary or any other Contract relating to disposition, voting or dividends with respect to any equity securities of C Co or of any C Co Subsidiary (other than the No-Shop Agreement and the Shareholders Agreement). Except for quarterly dividends of \$0.05 per share paid or payable to shareholders of record as of January 1, 2005, April 1, 2005, July 1, 2005 and October 1, 2005, no dividends on the C Co Common Stock have been declared or have accrued from December 31, 2004 through the date hereof. All of the outstanding shares of C Co Common Stock have been issued by C Co in compliance with applicable federal and state securities laws.

(d) *Validity of Certain Prior Issuances.* Each outstanding share of capital stock (or other equity interest) of each C Co Subsidiary is duly authorized, validly issued, fully paid and nonassessable and was issued free of preemptive (or similar) rights, and each such share is owned by C Co or another C Co Subsidiary (except for, in the case of certain non-United States C Co Subsidiaries, nominal numbers of shares held by a director, officer or other agent of a C Co Subsidiary in trust for such C Co Subsidiary) free and clear of all options, rights of first refusal, agreements, limitations on C Co's or any C Co Subsidiary's voting, dividend or transfer rights, charges and other encumbrances or Liens of any nature whatsoever.

(e) *Validity of Share Issuance.* When issued in accordance with the terms of this Agreement, the shares of C Co Common Stock to be issued in connection with the Share Issuance will be duly authorized, validly issued, fully paid and non-assessable, free and clear of all Liens.

SECTION 3.04 Authority Relative to This Agreement. Each of C Co and Merger Co has all necessary corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to which it is or will become a party, to perform its respective obligations hereunder and thereunder and to consummate the Merger, the Share Issuance, the Articles Amendment and the other transactions contemplated by this Agreement to be consummated by C Co and Merger Co (the “*Other Transactions*”). The execution, delivery and performance by C Co and Merger Co of this Agreement and each Ancillary Agreement to which C Co or Merger Co is or will become a party and the consummation by C Co and Merger Co of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings on the part of C Co or Merger Co are necessary to authorize this Agreement or any Ancillary Agreement or to consummate the Merger, the Share Issuance, the Articles Amendment or such Other Transactions (other than the approval of the C Co Proposal by the shareholders of C Co in accordance with the Georgia Business Corporation Code (“*GBCC*”) (the “*C Co Shareholder Approval*”) and the filing and recordation of the Certificate of Merger as required by the provisions of the DGCL and the DLLCA). Except for the C Co Shareholder Approval, the affirmative vote or consent of the holders of any class or series of capital stock or other securities of C Co, or any of them, is not necessary to approve any agreement or instrument contemplated hereby or by any of the Other Transactions other than this Agreement or to consummate any of the Other Transactions contemplated hereby or thereby. This Agreement has been duly and validly executed and delivered by C Co and, assuming the due authorization, execution and delivery by F Co, constitutes legal, valid and binding obligations of C Co, enforceable against it in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors’ rights generally and subject to the effect of general principles of equity. Each other Ancillary Agreement to which C Co will be a party (the “*C Co Closing Documents*”), upon execution and delivery by C Co, will constitute a legal, valid and binding obligation of C Co, enforceable against it in accordance with their respective terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors’ rights generally and subject to the effect of general principles of equity.

SECTION 3.05 No Conflict; Required Filings and Consents.

(a) *No Conflict.* The execution and delivery of this Agreement by C Co and Merger Co do not, and the execution and delivery of the C Co Closing Documents by C Co, the performance of this Agreement by C Co and Merger Co, the performance of the C Co Closing Documents by C Co, and the consummation by C Co and Merger Co of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions will not, (i) conflict with, violate or result in a breach of the Articles of Incorporation or Bylaws (or comparable organizational documents) of C Co, Merger Co or any other C Co Subsidiary, (ii) assuming that all consents, approvals and other authorizations described in *Section 3.05(b)* (other than clause (viii) thereof) have been obtained and that all filings and other actions described in *Section 3.05(b)* (other than clause (viii) thereof) have been made or taken, conflict with or violate any statute, law, ordinance, regulation, rule, code, executive order, judgment, injunction, decree or other order (“*law*”) or Operating Rule applicable to C Co, Merger Co or any other C Co Subsidiary or by which any property or asset of C Co, Merger Co or any other C Co Subsidiary is bound or affected, or (iii) result in any breach or violation of or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, require consent or result in a loss of a benefit under, give rise to an obligation under, give to others any right of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of C Co, Merger Co or any other C Co Subsidiary pursuant to, any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other binding commitment, instrument or obligation (each, a “*Contract*”) to which C Co, Merger Co or any other C Co Subsidiary is a party or by which C Co, Merger Co or any other C Co Subsidiary or any property or asset of C Co, Merger Co or any other C Co Subsidiary is bound or

affected, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences which would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect.

(b) *Consents and Approvals.* The execution and delivery of this Agreement by C Co and Merger Co do not, and the performance of this Agreement by C Co and Merger Co and the consummation by C Co and Merger Co of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions will not, require any consent, approval, authorization or permit of, or filing with or notification to, any supranational, national, provincial, federal, state or local government, regulatory or administrative authority, or any court, tribunal, or judicial or arbitral body (a “*Governmental Authority*”) or any Association, except for (i) applicable requirements of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), (ii) the pre-merger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “*HSR Act*”) and the competition or merger control laws of any other applicable jurisdiction, (iii) the filing with the Securities and Exchange Commission (the “*SEC*”) of a proxy statement relating to the approval of the Share Issuance and the Articles Amendment by C Co’s shareholders (as amended or supplemented from time to time, the “*Proxy Statement*”), (iv) any filings required by, and any approvals required under, the rules and regulations of the NYSE, (v) the filing and recordation of appropriate merger documents as required by the DGCL and appropriate documents with the relevant authorities of other states in which C Co or any C Co Subsidiary is qualified to do business, (vi) if required, the filing of a Form D with the SEC and any applicable state securities regulatory authorities, (vii) the consents, notices and approvals set forth in *Section 3.05(b)(vii) of the C Co Disclosure Schedule*, and (viii) any such consents, approvals, authorizations, permits, notifications, or filings, the failure of which to obtain or make, or would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect. C Co has obtained and provided to F Co a true and correct copy of a written commitment from SunTrust Bank and SunTrust Capital Markets, Inc. to provide a new \$250 million unsecured term loan, which would replace C Co’s existing \$200 million unsecured revolving credit facility and provide a funding source for payment of the Special Dividend (the “*SunTrust Commitment*”). The SunTrust Commitment has not been rescinded or amended in a manner materially adverse to the interests of C Co or F Co, and the SunTrust Commitment remains in full force and effect. C Co is not aware of any facts or circumstances that create a reasonable basis for C Co to believe that C Co will not be able to obtain financing under and in accordance with the SunTrust Commitment.

SECTION 3.06 Permits; Compliance; Regulatory Matters.

(a) *Permits.* Each of C Co and each C Co Subsidiary has all franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals and orders of any Governmental Authority or Association necessary for each of C Co and each C Co Subsidiary to own, lease and operate its properties or to carry on its business as it is now being conducted (the “*C Co Permits*”), except for any such C Co Permit the failure of which to have, or the suspension or cancellation of which would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect. Neither it nor any C Co Subsidiary has received any written notification from any Governmental Authority threatening to revoke any such person’s C Co Permit. To C Co’s knowledge, all such C Co Permits are renewable by their respective terms in the ordinary course of business without the need to comply with any special qualification procedures or to pay any amounts other than routine filing fees. The consummation of the Merger, in and of

itself will not cause the revocation or cancellation of any C Co Permits other than any C Co Permit the revocation or cancellation of which would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect.

(b) *Regulatory Approvals.* As of the date of this Agreement, to C Co's knowledge, there is no reason why (i) all regulatory approvals from any Governmental Authority required for the consummation of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions should not be obtained on a timely basis or (ii) any condition to the consummation of the Merger, the Share Issuance,

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the Articles Amendment and the Other Transactions set forth in *Section 7.01* and *7.03*, should not be satisfied on a timely basis.

(c) *Compliance with Law.* Each of C Co and each C Co Subsidiary is in material compliance with any law or Operating Rule applicable to such entity or by which any property or asset of such entity is bound or affected, is not currently in material violation of any such law or Operating Rule, and there have been no notices or orders of noncompliance issued to C Co or any C Co Subsidiaries under or in respect of any such laws or Operating Rules. Neither C Co nor any C Co Subsidiary has received any written notice from a Governmental Authority or Association alleging that the Company or any Subsidiary has failed to comply (i) in any respect with any applicable law or Operating Rules relating to the security of consumer information or (ii) in any material respect with any applicable laws or Operating Rules relating to consumer protection and/or consumer financial services, in either case, other than such notices received in the ordinary course of its business.

(d) *Data Security.* To C Co's knowledge, there are no facts or circumstances that would require C Co or any C Co Subsidiary to give notice to any customers, consumers or other similarly situated individuals, pursuant to California Civil Code Section 1798.82 or any similar law, of any actual or perceived data security breaches, except for such notices given in the ordinary course of its business or the failure of which to provide would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect.

(e) *Internal Controls.* C Co has established and maintains a system of internal accounting controls that is designed to ensure the accurate recording, processing, summarizing and reporting of financial information. C Co has not received any material complaint, allegation, assertion or claim in writing regarding the accounting practices, procedures, methodologies or methods of C Co or its internal accounting controls, including any such complaint, allegation assertion or claim that C Co has engaged in questionable accounting practices. C Co is not aware of any significant deficiencies or material weaknesses in the design or operation of its internal accounting controls which are reasonably likely to adversely affect C Co's ability to record, process, summarize and report financial information. C Co is not aware of any material fraud or allegations of fraud that involves senior management or other employees who have a significant role in internal controls.

SECTION 3.07 SEC Filings; Financial Statements; Undisclosed Liabilities.

(a) *SEC Filings.* C Co has filed all forms, reports, statements, schedules and other documents required to be filed by it with the SEC since January 1, 2002 (collectively, the "*SEC Reports*"). The SEC Reports (i) were prepared in accordance with the applicable requirements of the Securities Act of 1933, as amended (the "*Securities Act*"), the Exchange Act, the Sarbanes-Oxley Act of 2002 (the "*Sarbanes-Oxley Act*"), and, in each case, the rules and regulations promulgated thereunder, and (ii) did not, at the time they were filed, or, if amended, as of the date of such amendment, 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 made therein, in the light of the circumstances under which they were made, not misleading (including any financial statements or other documentation incorporated by reference therein). No C Co Subsidiary is required to file any form, report or other document with the SEC.

(b) *Financial Statements.* Each of the consolidated financial statements (including, in each case, any notes thereto) contained in the SEC Reports was prepared in accordance with United States generally accepted accounting principles ("*GAAP*") applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) and each fairly presents, in all material respects, the consolidated financial position, assets and liabilities, results of operations and cash flows of C Co and its consolidated C Co Subsidiaries as at the respective dates thereof and for the respective periods indicated therein (subject, in the case of unaudited statements, to normal and recurring year-end adjustments and, in the

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case of pro forma financial statements, to the qualifications stated therein). All of the C Co Subsidiaries are consolidated for accounting purposes.

(c) *No Undisclosed Liabilities.* Neither C Co nor any of the C Co Subsidiaries has any liabilities of a nature required by GAAP to be reflected in a consolidated balance sheet or the notes thereto, except liabilities that (i) are accrued or reserved against in the most recent financial statements included in the SEC Reports filed prior to the date hereof or are reflected in the notes thereto, (ii) were incurred in the ordinary course of business since the date of such financial statements or otherwise in accordance with *Section 5.01*, (iii) are incurred pursuant to the transactions contemplated by this Agreement, (iv) have been discharged or paid in full prior to the date of this Agreement in the ordinary course of business or (v) as would not reasonably be expected to have, individually or in the aggregate, a C Co Material Adverse Effect.

SECTION 3.08 Information Supplied. None of the information included or incorporated by reference in the Proxy Statement or any other document filed by C Co with the SEC in connection with the Share Issuance or the Articles Amendment (the "*Other Filings*") will, in the case of the Proxy Statement, at the date it is first mailed to C Co's shareholders or at the time of the C Co Shareholders' Meeting or at the time of any amendment or supplement thereof, or, in the case of any Other Filing, at the date it is first mailed to C Co's shareholders or at the date it is first filed with the SEC, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading, except that no representation is made by C Co with respect to statements made or incorporated by reference therein based on information supplied by F Co, its stockholders or any affiliate of F Co or its stockholders in connection with the preparation of the Proxy Statement or the Other Filings for inclusion or incorporation by reference therein. The Proxy Statement and the Other Filings that are filed by C Co will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations promulgated thereunder.

SECTION 3.09 Absence of Certain Changes or Events. Since December 31, 2004, there has not been any C Co Material Adverse Effect. Since December 31, 2004 and prior to the date hereof, except as expressly contemplated by this Agreement, (a) C Co and the C Co Subsidiaries have conducted their businesses only in the ordinary course of business and in a manner consistent with past practice, except with respect to activities related to the disposition of C Co's merchant acquiring portfolio, (b) neither C Co nor any C Co Subsidiary has terminated or suffered any material amendment of any

Specified C Co Contract that has or would reasonably be expected to have a C Co Material Adverse Effect, (c) other than in the ordinary course of business consistent with past practice, neither C Co nor any C Co Subsidiary has increased the salaries or other compensation of, or made any advance or loan to, any of its current or former directors or executive officers or made any increase in, or any addition to, other benefits to which any of its current or former directors or executive officers may be entitled, and (d) neither C Co nor any C Co Subsidiary has: (i) suffered any damage, destruction or loss (regardless of whether covered by insurance), other than in the ordinary course of business, that has had or would reasonably be expected to have a C Co Material Adverse Effect; or (ii) taken any action that would be prohibited by clauses (a) through (q) of Section 5.01 if taken after the date hereof.

SECTION 3.10 Absence of Litigation. There is no litigation, suit, claim, action, proceeding, hearing, petition or investigation (an “Action”) pending or, to the knowledge of C Co, threatened against C Co or any C Co Subsidiary, or any property or asset of C Co or any C Co Subsidiary, before any Governmental Authority or arbitrator (a) that questions the validity of this Agreement or any other Transaction Document, the performance by either C Co of the obligations to be performed by them hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or (b) except as would not reasonably be expected to have a C Co Material Adverse Effect. As of the date of this Agreement, no executive officer or director of C Co is a defendant in any Action in connection with his status as an executive officer or director of C Co or any C Co Subsidiary. Neither C Co nor any C Co Subsidiary nor any property or asset of C Co or any C Co Subsidiary is subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of C Co, continuing investigation by, any Governmental Authority, or any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority.

SECTION 3.11 Employee Benefit Plans.

(a) *Benefit Plans.* Section 3.11(a) of the C Co Disclosure Schedule lists: (i) all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”)) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other benefit plans, programs or arrangements; and (ii) all material employment, termination, severance or other contracts, agreements or commitments to which C Co or any C Co Subsidiary is a party, with respect to which C Co or any C Co Subsidiary has or may reasonably be expected to have any obligation or which are maintained, contributed to or sponsored by C Co or any C Co Subsidiary for the benefit of any current or former employee, consultant, officer or director of C Co or any C Co Subsidiary (collectively, the “C Co Plans”). C Co has made available to F Co a complete and correct copy (where applicable) of (u) each C Co Plan (or, where a C Co Plan has not been reduced to writing, a summary of all material terms of such C Co Plan), (v) each trust or funding arrangement prepared in connection with each such C Co Plan, (w) the most recently filed annual report on Internal Revenue Service (“IRS”) Form 5500, (x) the most recently received IRS determination letter for each such C Co Plan, (y) the most recently prepared actuarial report and financial statement in connection with each such C Co Plan, and (z) the most recent summary plan description, any summaries of material modification, any employee handbooks, and any material written communications (or a description of any material oral communications) by C Co or the C Co Subsidiaries to any current or former employees, consultants, or directors of C Co or any C Co Subsidiary concerning the extent of the benefits provided under a C Co Plan.

(b) *Pension Plans; Multiemployer Plans.* None of C Co or any C Co Subsidiary or any other person that, together with C Co or any C Co Subsidiary, is or was treated as a single employer under Section 414(b), (c), (m) or (o) of the Code (each, together with C Co and any C Co Subsidiary, a “C Co ERISA Affiliate”), has now or at any time within the past three years (and in the case of any such other person, only during the period within the past three years that such other person was a C Co ERISA Affiliate) contributed to, sponsored, or maintained (i) a pension plan (within the meaning of Section 3(2) of ERISA) subject to Section 412 of the Code or Title IV of ERISA; (ii) a multiemployer plan (within the meaning of Section 3(37) or 4001(a)(3) of ERISA) (a “Multiemployer Plan”); or (iii) a single employer pension plan (within the meaning of Section 4001(a)(15) of ERISA) for which a C Co ERISA Affiliate would reasonably be expected to incur liability under Section 4063 or 4064 of ERISA (a “Multiple Employer Plan”).

(c) *Change in Control Agreements.* Section 3.11(c) of the C Co Disclosure Schedule lists each C Co plan (each agreement thereon being referred to as a “C Co Change in Control Agreement”) that would reasonably be expected to result in the payment to any present or former employee, director or consultant of C Co or any C Co Subsidiary of any money or other property or accelerate or provide any

other rights or benefits to any current or former employee, director or consultant of C Co or any C Co Subsidiary as a result of the consummation of the Merger, the Share Issuance, the Articles Amendment or any other transaction contemplated by this Agreement (whether alone or in connection with any other event). No payment or benefit which will or may be made by C Co or any C Co Subsidiaries with respect to any other “disqualified individual” will be characterized as a “parachute payment,” within the meaning of Code Section 280G(B)(2). In the event that the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby (either alone or upon the occurrence of any additional or subsequent events) results or could result in any payment or benefit which will be characterized as a “parachute payment,” Section 3.11(c) of the C Co Disclosure Schedule lists all persons who C Co reasonably believes are, with respect to C Co or any C Co Subsidiaries, “disqualified individuals” as determined as of the date hereof.

(d) *Qualified Plans.* Each C Co Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS that the C Co Plan is so qualified, and, to the knowledge of C Co, no fact or circumstance exists that would reasonably be expected to result in the revocation of such letter.

(e) *Compliance.* Each C Co Plan has been established and administered in accordance with its terms, and in compliance with the applicable provisions of ERISA, the Code and other applicable laws, except to the extent such noncompliance, individually or in the aggregate, would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect. All amendments and actions required to bring each of the C Co Plans into conformity in all material respects with all of the applicable provisions of ERISA and other applicable laws have been made or taken except to the extent that such amendments or actions are not required by law to be made or taken until a date after the Effective Time. Except to the extent it would not reasonably be expected to result in a C Co Material Adverse Effect, neither C Co nor any C Co Subsidiary has incurred or reasonably expects to incur, either directly or indirectly (including as a result of an indemnification obligation), any liability under Title 1 or IV of ERISA or the penalty, excise tax or joint and several liability provisions of the Code or any foreign law or regulation relating to employee benefit plans (including, without limitation, Section 406, 409, 502(i), 502(1), 4069 or 4212(c) of ERISA, or Section 4971, 4975 or 4976 of the Code), or under any agreement, instrument, statute, rule or legal requirement pursuant to or under which C Co or any C Co Subsidiaries or any C Co Plan or pension plan has agreed to indemnify or is required to indemnify any person against liability incurred under, or for a violation or failure to satisfy the requirements of any such legal requirement, and to the knowledge of C Co, no event,

transaction or condition has occurred, exists or is expected to occur which could result in any such liability to C Co or any C Co Subsidiary after the Effective Time.

(f) *Actions.* With respect to any C Co Plan, (i) no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the knowledge of C Co, threatened, except for those that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (ii) to the knowledge of C Co, no facts or circumstances exist that would reasonably be expected to give rise to any such Actions, and (iii) no administrative investigation, audit or other administrative proceeding by the Department of Labor, the IRS or other Governmental Authority is pending, in progress or, to the knowledge of C Co, threatened, except for those that would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect.

(g) *Contributions.* All contributions and premiums required by law or by the terms of any C Co Plan have been timely made (without regard to any waivers granted in respect thereof) to any funds or trusts established thereunder or in connection therewith, and no accumulated funding deficiencies exist in any of such plans subject to Section 412 of the Code.

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(h) *Reportable Events.* During the 12-month period ending on the date hereof, no “reportable event” (as defined in Section 4043 of ERISA and the regulations thereunder) for which the 30-day reporting requirement has not been waived or extended has occurred with respect to any of the C Co Plans subject to Title IV of ERISA, nor has any event requiring notice to be provided under Section 4041(c)(3)(C) or 4063(a) of ERISA.

(i) *Filing Violations.* There has been no violation of ERISA in respect of the filing of applicable returns, reports, documents, and notices regarding any of the C Co Plans with the Secretary of Labor or the Secretary of the Treasury or the furnishing of such notices or documents to the participants or beneficiaries of the C Co Plans that would reasonably be expected to result in a C Co Material Adverse Effect.

(j) *Certain Notices.* C Co, each C Co Subsidiary, and any C Co ERISA Affiliate that maintains a “benefits plan” (within the meaning of Section 5000(b)(1) of ERISA) have complied with the notice and continuation requirements of Section 4980B of the Code or Part 6 of Title I of ERISA and the applicable regulations thereunder, except to the extent that failure to so comply would not reasonably be expected to result in a C Co Material Adverse Effect.

(k) *Unfunded Liabilities.* None of C Co, any C Co Subsidiary, any C Co ERISA Affiliate or any organization to which any is a successor or parent corporation, has divested any business or entity maintaining or sponsoring a defined benefit pension plan having unfunded benefit liabilities (within the meaning of Section 4001(a)(18) of ERISA) or transferred any such plan to any person other than C Co, any C Co Subsidiary, or any C Co ERISA Affiliate during the five-year period ending on the date of the Closing.

(l) *Prohibited Transactions.* To C Co’s knowledge, neither C Co nor any C Co Subsidiary nor any “party in interest” or “disqualified person” in respect of the C Co Plans has engaged in a “prohibited transaction” (within the meaning of Section 4975 of the Code or Section 406 of ERISA) that would reasonably be expected to result in a C Co Material Adverse Effect.

(m) *Trustees.* None of C Co, any C Co Subsidiary, or any C Co ERISA Affiliate has terminated any C Co Plan subject to Title IV of ERISA, or incurred any outstanding liability under Section 4062 of ERISA to the Pension Benefit Guaranty Corporation (the “PBGC”) or to a trustee appointed under Section 4042 of ERISA and no person (including without limitation the PBGC) has instituted any proceeding to terminate any C Co Plan or pension plan or appoint a trustee to administer any such C Co Plan or pension plan, in each case, except to the extent it would not reasonably be expected to result in a C Co Material Adverse Effect.

(n) *Acceleration of Payments.* Neither the execution and delivery of this Agreement nor the consummation of the Merger, the Share Issuance, the Articles Amendment and the transactions contemplated hereby will (i) result in any payment becoming due to any employee of C Co or any C Co Subsidiary, (ii) increase any benefits otherwise payable under any C Co Plan or pension plan, or (iii) result in the acceleration of the time of payment, funding or vesting of any such benefits.

(o) *Stock Subject to C Co Plans.* No stock or other security issued by C Co or any C Co Subsidiary forms or has formed a material part of the assets of any C Co Plan.

(p) *Foreign Plans.* With respect to each C Co Plan that is not subject to United States law (a “Foreign C Co Plan”), except as would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect: (i) all employer and employee contributions to each Foreign C Co Plan required by law or by the terms of such Foreign C Co Plan have been made or, if applicable, accrued in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign C Co Plan, the liability of each insurer for any Foreign C Co Plan funded through insurance or the book reserve established for any Foreign C Co Plan, together with any accrued contributions, is sufficient

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to procure or provide for the accrued benefit obligations, as of the date of this Agreement, with respect to all current and former participants in such plan according to the actuarial assumptions and valuations most recently used and consistent with applicable law to determine employer contributions to such Foreign C Co Plan and no transaction contemplated by this Agreement shall cause such assets, reserve or insurance obligations to be less than such benefit obligations; (iii) each Foreign C Co Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each Foreign C Co Plan is in compliance with all applicable law in all material respects.

(q) *Retiree Health and Welfare Benefits.* Except for the continuation coverage requirements of Section 4980B of the Code or Part 6 of Title I of ERISA (“COBRA”), C Co has no liability or potential liability for benefits to any employees following termination of employment or retirement under any of the C Co Plans that are employee welfare benefit plans. No written or oral representations have been made to any employee or former employee of C Co promising or guaranteeing any employer payment or funding for the continuation of medical, dental, life or disability coverage for any period of time beyond the end of the current plan year (except to the extent of coverage required under COBRA).

(r) *Section 409A.* Each C Co Plan that is a “nonqualified deferred compensation plan” subject to Code Section 409A has been operated since January 1, 2005 based upon a good faith, reasonable interpretation of Code Section 409A and Internal Revenue Service Notice 2005-1. No C Co Plan that is a “nonqualified deferred compensation plan” that is not subject to Code Section 409A has been materially modified (as determined under Notice 2005-1) after

October 3, 2004. No stock option granted under any C Co Plan has an exercise price that has been or may be less than the fair market value of the underlying stock as of the date such option was granted or has any feature for the deferral of compensation other than the deferral of recognition of income until the later of exercise or disposition of such option.

SECTION 3.12 Labor and Employment Matters.

(a) *Collective Bargaining; Union Organization.* Neither C Co nor any C Co Subsidiary is a party to any collective bargaining agreement or other labor union agreements applicable to persons employed by C Co or any C Co Subsidiary, nor to the knowledge of C Co, are there any formal activities or proceedings of any labor union to organize any such employees.

(b) *Complaints and Grievances.* There are no material unfair labor practice complaints, grievances or charges pending, or to C Co's knowledge, threatened against C Co or any C Co Subsidiary before the National Labor Relations Board ("NLRB") or any other Governmental Authority or any current union representation questions involving employees of C Co or any C Co Subsidiary. There are no complaints, charges, or claims against C Co or any C Co Subsidiary pending or, to C Co's knowledge, threatened to be brought or filed with the NLRB or any Governmental Authority based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any individual by C Co or any C Co Subsidiary.

(c) *Strikes and Slowdowns.* There is no strike, controversy, slowdown, work stoppage, lockout, material arbitration, or material grievance or other material labor dispute or, to the knowledge of C Co, threatened in writing, by or with respect to any employees of C Co or any C Co Subsidiary.

(d) *Employee Relations.* The employment of each officer and U.S. employee of C Co and the C Co Subsidiaries is terminable at the will of C Co or such C Co Subsidiary, as the case may be. To C Co's knowledge, no officer of C Co or any C Co Subsidiary is in violation of any material term of any employment, consultant, non-disclosure, non-competition, confidentiality, or other equivalent agreement.

SECTION 3.13 Real and Personal Property.

(a) *Owned Real Property.* Section 3.13(a) of the C Co Disclosure Schedule lists each parcel of real property owned by C Co or any C Co Subsidiary (the "C Co Owned Real Property"). C Co or a C Co

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Subsidiary has good, valid and marketable title to all of the C Co Owned Real Property, in each case free and clear of all mortgages, pledges, liens, security interests, conditional and installment sale agreements, encumbrances, charges or other claims of third parties of any kind, including, without limitation, any easement, right of way or other encumbrance to title, or any option, right of first refusal, or right of first offer (collectively, "Liens"), other than (i) Liens for current Taxes not yet due and payable or for Taxes which are being contested in good for which adequate reserves have been established, (ii) any materialmen's, mechanics, workmen's, repairmen's, contractor's, warehousemen's, carrier's, supplier's, vendor's, or equivalent Liens if payment is not yet due on the underlying obligation, (iii) Liens, in the case of C Co or any C Co Subsidiary, that are reflected in the financial statements contained in the SEC Reports, (iv) statutory or common, law Liens to secure landlords, lessors, or renters under leases or rental agreements confined to the premises rented, and (v) deposits or pledges made in connection with, or to secure payment of, worker's compensation, unemployment insurance, old age pension, or other social security programs mandated under applicable law (collectively, "Permitted Liens").

(b) *Leased Real Property.* Section 3.13(b) of the C Co Disclosure Schedule lists by address each parcel of real property leased or subleased by C Co or any C Co Subsidiary (the "C Co Leased Properties"). C Co or a C Co Subsidiary has a valid leasehold interest in all of the C Co Leased Properties, in each case free and clear of all Liens, except for Permitted Liens. Each of the leases and subleases relating to the C Co Leased Properties is in full force and effect, there is no material default by C Co or any C Co Subsidiary or, to C Co's knowledge, by the lessor under any such lease or sublease.

(c) *Improvements; Dispositions.* The structures, plants, improvements, systems, and fixtures located on each parcel of C Co Owned Real Property and, to C Co's knowledge, each parcel of the C Co Leased Properties, comply in all material respects with all laws, and are in good operating condition and repair, ordinary wear and tear excepted. Each such parcel of C Co Owned Real Property and, to C Co's knowledge, each parcel of the C Co Leased Properties, conforms in all material respects with all covenants or restrictions of record and conforms with all applicable building codes and zoning requirements and there is not, to C Co's knowledge, any proposed change in any such governmental or regulatory requirements or in any such zoning requirements. None of the C Co Owned Real Property or C Co Leased Properties reflected in the financial statements in the SEC Reports has been disposed of and no such real property has been acquired by C Co or any C Co Subsidiary since the date of the most recent financial statements contained in the SEC Reports.

(d) *Personal Property.* C Co and each of the C Co Subsidiaries has good and marketable title to its personal property, free and clear of all Liens, other than (i) the Permitted Liens, and (ii) those Liens that have arisen in the ordinary course of business consistent with past practice and that do not materially impair the ownership or use of such personal property. Such personal property is in such operating condition and repair as is suitable for the uses for which it is used in the business of C Co and the C Co Subsidiaries, are not subject to any condition which materially interferes with the use thereof by C Co or the C Co Subsidiaries, as the case may be, and constitute all personal property necessary to permit C Co and the C Co Subsidiaries to carry on their business after the Effective Time substantially as conducted by C Co and the C Co Subsidiaries prior thereto.

SECTION 3.14 Intellectual Property.

(a) For purposes of this Agreement, "C Co Intellectual Property" shall mean all patents, inventions, copyrights, work subject to copyrights, software, trademarks, service marks, brand names, logos, domain names, trade dress, trade secrets, know-how, confidential or proprietary information (and all applications, registrations, continuations, divisionals, renewals and reissues relating thereto) and all other intellectual property rights of any kind or nature arising under U.S. or foreign law and which are owned by, used or held for use in the business of C Co and the C Co Subsidiaries.

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(b) *List of Intellectual Property.* Section 3.14 of the C Co Disclosure Schedule contains a true and complete list of all material U.S. and foreign registrations and applications for registration of C Co Intellectual Property.

(c) *Ownership.* C Co or the C Co Subsidiaries are the sole and exclusive owners of all right, title and interest in and to all of the registered C Co Intellectual Property, and all pending applications filed by C Co or any C Co Subsidiary therefor, and each of the other copyrights in any works of authorship prepared by or for C Co or any C Co Subsidiary that resulted from or arose out of any work performed by or on behalf of C Co or by any

employee, officer, consultant or contractor of any of them. To C Co's knowledge and except as would not reasonably be expected to have a C Co Material Adverse Effect, C Co and the C Co Subsidiaries are the sole and exclusive owners of, or have valid and continuing rights to use, sell or license, as the case may be, all other C Co Intellectual Property used, sold or licensed by C Co or the C Co Subsidiaries in their businesses as presently conducted, free and clear of all Liens, except for Permitted Liens.

(d) *No Misappropriation.* To C Co's knowledge, and except as would not reasonably be expected to have a C Co Material Adverse Effect, the C Co Intellectual Property does not constitute an unauthorized use or misappropriation of any patent, copyright, trademark, trade secret or other equivalent right, of any person, and does not infringe, constitute an unauthorized use of, or violate any other right of any person. The C Co Intellectual Property includes all of the material intellectual property rights necessary to enable C Co and the C Co Subsidiaries to conduct their businesses in the manner in which such businesses are currently being conducted.

(e) *No Infringement.* Neither C Co nor any of the C Co Subsidiaries: (i) is a party to any Action that involves a claim of infringement or misappropriation of any patent, copyright or trade secret right by C Co or any C Co Subsidiary against any third party; (ii) has provided written notice to any third party alleging infringement or misappropriation of any C Co Intellectual Property; (iii) is a party to any suit, action or proceeding which involves a claim of infringement or misappropriation of any C Co Intellectual Property by a third party against C Co or any C Co Subsidiary; or (iv) except as would not reasonably be expected to have a C Co Material Adverse Effect, has received any written notice from any third party alleging infringement or misappropriation of such third party's patents, copyrights or trade secrets. To C Co's knowledge and except as would not reasonably be expected to have a C Co Material Adverse Effect, the manufacturing, marketing, licensing, use or sale of the products or the performance of the services offered by C Co and the C Co Subsidiaries in the ordinary course of their respective businesses as presently conducted do not currently infringe, and have not infringed upon any patent, copyright or trade secret right of any third party.

(f) *Protection of Trade Secrets.* Except as would not reasonably be expected to have a C Co Material Adverse Effect, no trade secret or any other non-public, proprietary information material to the business of C Co and the C Co Subsidiaries as presently conducted has been authorized to be disclosed or, to C Co's knowledge, has been actually disclosed by C Co or any C Co Subsidiary to any employee or any third party other than pursuant to a non-disclosure agreement or employment policy restricting the disclosure and use of such trade secret or non-public proprietary information. Except as would not reasonably be expected to have a C Co Material Adverse Effect, C Co and the C Co Subsidiaries have taken adequate security measures to protect the secrecy and confidentiality of all trade secrets and any other material confidential information of C Co and the C Co Subsidiaries which measures are reasonable in the industry in which C Co and the C Co Subsidiaries operate.

(g) *No Claim of Ownership.* C Co and the C Co Subsidiaries have not received written notice from any current or prior officers, employees, or contractors of C Co or any C Co Subsidiary claiming any ownership interest in any C Co Intellectual Property as a result of having been involved in the development of such property while employed by or performing services for C Co or any C Co Subsidiary.

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(h) *Software.* Except as would not reasonably be expected to have a C Co Material Adverse Effect, C Co's unmodified version of its material software that is marketed and licensed by C Co and the C Co Subsidiaries to its customers (the "C Co Software") conforms in all material respects with the documentation prepared, marketed and licensed by C Co in respect of such C Co Software. Except as would not reasonably be expected to have a C Co Material Adverse Effect: (i) there are no defects, malfunctions or nonconformities in the unmodified version of the C Co Software that cause the unmodified version of the C Co Software, as properly installed, not to perform the material functions for which they are intended, on the whole, as provided in C Co's documentation; and (ii) there are no errors in any documentation, specifications, manuals, and user guides associated with or used or produced in the development, maintenance or marketing of the C Co Intellectual Property.

SECTION 3.15 Taxes.

(a) *Payment and Filings.* All income, franchise and other material Tax Returns required to be filed by or with respect to C Co, any C Co Subsidiary or any Affiliated Group of which C Co or any C Co Subsidiary is or was a member have been timely filed or caused to be filed (taking into account any extension of time to file granted or obtained) and any such filed Tax Returns are true, correct and complete in all material respects. All material amounts of Taxes due and payable by or with respect to C Co, any C Co Subsidiary, or any Affiliated Group of which C Co or any C Co Subsidiary is or was a member have been fully and timely paid, except to the extent that C Co or the appropriate C Co Subsidiary has set aside adequate reserves in accordance with GAAP on the most recent balance sheet contained in the SEC Reports. Without taking into account any transactions contemplated by this Agreement and based upon activities to date, adequate reserves in accordance with GAAP have been established by C Co and the C Co Subsidiaries on the most recent balance sheet contained in the SEC Reports for all Taxes not yet due and payable in respect of taxable periods ending on or before the date hereof.

(b) *Compliance.* C Co and the C Co Subsidiaries have complied in all material respects with all applicable laws relating to the payment and withholding of Taxes and have duly and timely withheld from employee salaries, wages, other compensation, and other amounts and have paid over to the appropriate taxing authorities all amounts required to be so withheld and paid over under all applicable laws.

(c) *Returns.* C Co has delivered or made available to F Co true and complete copies of: (i) all federal, state, local, and foreign income and franchise Tax Returns of C Co and each of the C Co Subsidiaries relating to the taxable periods since C Co's organization; and (ii) any audit report issued within the last three years relating to Taxes due from or in respect of C Co or any of the C Co Subsidiaries.

(d) *No Other Claims.* As of the date hereof, to C Co's knowledge, with respect to C Co and the C Co Subsidiaries, no claim has been made by a taxing authority in a jurisdiction where C Co or any of the C Co Subsidiaries does not file a type of Tax Return such that it is or may be subject to that type of Tax in that jurisdiction.

(e) *Audits and Examinations.* As of the date hereof, (i) there are no pending or, to the knowledge of C Co, threatened audits, examinations, investigations or other proceedings in respect of any Taxes of C Co or any C Co Subsidiary with respect to which C Co or such C Co Subsidiary has been notified in writing; and (ii) neither C Co nor any C Co Subsidiary has waived any statute of limitations in respect of a material amount of Taxes or agreed to any extension of time with respect to an assessment or deficiency for a material amount of Taxes (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course).

(f) *No Adjustments.* Neither C Co nor any of the C Co Subsidiaries nor any other person on any of their behalf has: (i) agreed to or is required to make any adjustments pursuant to Section 481(a) of the Code or any similar provision of law by reason of a change in accounting method initiated by C Co or

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any C Co Subsidiary or has any knowledge that the IRS or any other taxing authority has proposed any such adjustment or change in accounting method, or has any application pending with any taxing authority requesting permission for any changes in accounting methods that relate to the business or operations of C Co or any of the C Co Subsidiaries; or (ii) executed or entered into a closing agreement pursuant to section 7121 of the Code or any predecessor provision thereof or any similar provision of law in respect of C Co or any of the C Co Subsidiaries.

(g) *Tax Sharing.* Neither C Co nor any C Co Subsidiary is a party to any indemnification, allocation or sharing agreement with respect to Taxes that could give rise to a payment or indemnification obligation (other than agreements among C Co and the C Co Subsidiaries and other than customary Tax indemnifications contained in credit or other commercial agreements the primary purpose of which does not relate to Taxes).

(h) *Deficiencies; Liens.* No deficiency for any material amount of Tax has been asserted or assessed by any Governmental Authority in writing against C Co or any C Co Subsidiary (or, to the knowledge of C Co, has been threatened or proposed), except for deficiencies which have been satisfied by payment, settled or been withdrawn or which are being contested in good faith in appropriate proceedings and are Taxes for which C Co or the appropriate C Co Subsidiary has set aside adequate reserves in accordance with GAAP on the most recent balance sheet contained in the SEC Reports. There are no Liens for Taxes, other than Permitted Liens, on the assets of C Co or any C Co Subsidiary.

(i) *Share Distributions.* All distributions of shares by, or consisting of shares of, C Co or any of the C Co Subsidiaries purporting to qualify for tax-free treatment under Section 355 of the Code so qualified. With respect to each distribution of shares purporting to qualify for tax-free treatment under Section 355 of the Code, neither C Co nor any of the C Co Subsidiaries has constituted a “distributing corporation” or a “controlled corporation” (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of shares qualifying for tax-free treatment under Section 355 of the Code (i) in the two years prior to the date of this Agreement in a distribution that constitutes part of a “plan” or “series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the Merger or any other transaction (whether occurring before or after the Effective Time) or (ii) in a distribution that could otherwise constitute part of a “plan” or “series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the Merger.

(j) *Real Property Holding Corporation.* C Co has not constituted a “U.S. real property holding corporation” within the meaning of Section 897(c)(2) of the Code at any time during the last five years.

(k) *Listed Transactions.* Neither C Co nor any C Co Subsidiary is required to make any disclosure to the IRS with respect to a “listed transaction” pursuant to Section 1.6011-4(b)(2) of the Treasury Regulations promulgated under the Code.

(l) *Reorganization.* As of the date of this Agreement, neither C Co nor any C Co Subsidiary has taken or agreed to take any action or knows of any fact or circumstance that could reasonably be expected to prevent the Merger from qualifying as a “reorganization” within the meaning of Section 368(a) of the Code. C Co has reviewed the representation certificate contained in **Exhibit G-1** and C Co does not know of any fact or circumstance which could reasonably be expected to prevent C Co from delivering such representation certificate.

(m) *Definitions.* For purposes of this Agreement:

(i) “Tax” or “Taxes” shall mean (i) any and all federal, state, local and foreign income, gross receipts, payroll, employment, excise, stamp, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, real property, personal property, sales, use, transfer, value added, alternative or add-on minimum, estimated, or other taxes (together with

interest, penalties and additions to tax imposed with respect thereto) imposed by any Governmental Authority, and (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee liability, operation of law, Section 1.1502-6(a) of the Treasury Regulations promulgated under the Code (or any predecessor or successor thereof or any analogous or similar provision under any state, local or foreign law) or otherwise.

(ii) “Tax Returns” of a person means returns, declarations, claims for refund, or information returns or statements, reports and forms relating to Taxes filed or required to be filed with any Governmental Authority (including any schedule or attachment thereto) with respect to such person, including any amendment thereof.

SECTION 3.16 Environmental Matters.

(a) *Compliance with Environmental Laws.* Except as would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect: (i) none of C Co or any of the C Co Subsidiaries is in violation of any Environmental Law or, except for any violation that has been fully resolved, has violated in the past any Environmental Law; (ii) to the knowledge of C Co, there is and has been no release of Hazardous Substances that requires response action under applicable Environmental Law at, on or under any of the properties currently owned, leased or operated by C Co or any of the C Co Subsidiaries or, during the period of C Co’s or the C Co Subsidiaries’ ownership, lease or operation thereof, formerly owned, leased or operated by C Co or any of the C Co Subsidiaries, that would reasonably be expected to result in a liability to C Co or any of the C Co Subsidiaries; (iii) (A) C Co and the C Co Subsidiaries have obtained and are in compliance with all required Environmental Permits, (B) C Co and the C Co Subsidiaries, except for any noncompliance that has been fully resolved, have been in the past in compliance with such Environmental Permits, and (C) no Action is pending, or to C Co’s knowledge, threatened, to revoke, modify or terminate any such Environmental Permit; (iv) there are no Actions pending or, to the knowledge of C Co, threatened against C Co or any of the C Co Subsidiaries alleging violations of or liability under any Environmental Law or otherwise concerning the release or management of Hazardous Substances; (v) to C Co’s knowledge, no facts, circumstances, or conditions currently exist that could adversely affect the continued compliance by C Co and the C Co Subsidiaries with Environmental Laws and Environmental Permits or require currently unbudgeted capital expenditures to achieve or maintain such continued compliance with Environmental Laws and Environmental Permits; (vi) neither C Co nor any of the C Co Subsidiaries is the subject of any outstanding written order or Contract with any Governmental Authority or other person in respect of any (A) Environmental Laws, (B) remedial action relating to Environmental Laws, or (C) the release or threatened release of a Hazardous Material; (vii) there is no investigation of the business, operations, C Co Owned Real Property or C Co Leased Properties or any of the C Co Subsidiaries or, to C Co’s knowledge, previously owned, operated, or leased property of C Co or the C Co Subsidiaries pending or, to C Co’s knowledge, threatened that could lead to the imposition of any costs, liabilities or Liens under any Environmental Law; or (viii) to C Co’s knowledge, there is not located at any of the C Co Owned Real Property or C Co Leased Properties any (A) underground storage tanks, (B) asbestos-containing material, or (C) equipment containing polychlorinated biphenyls.

(b) *No Environmental Requirements.* The Merger, the Share Issuance, the Articles Amendment and other transactions contemplated by this Agreement do not trigger any requirements under any federal, state, local or foreign laws relating to the environment or natural resources which condition the

(c) *Definitions.* For purposes of this Agreement:

(i) “*Environmental Laws*” means any laws (including common law) of the United States federal, state, local, non-United States, or any other Governmental Authority, relating to: (A) releases or threatened releases of Hazardous Substances or materials containing Hazardous Substances; (B) the manufacture, handling, transport, use, treatment, storage, emission, discharge or disposal of Hazardous Substances or materials containing Hazardous Substances; or (C) pollution or protection of the environment or of human health and safety as such is affected by Hazardous Substances or materials containing Hazardous Substances.

(ii) “*Environmental Permits*” means any permit, license, registration, approval, notification or any other authorization pursuant to Environmental Law.

(iii) “*Hazardous Substances*” means: (A) those substances, materials or wastes defined as toxic, hazardous, acutely hazardous, pollutants or contaminants, in or regulated under the following United States federal statutes and any analogous foreign or state statutes, and all regulations thereunder: the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Air Act; (B) petroleum and petroleum products, including crude oil and any fractions thereof; (C) natural gas, synthetic gas, and any mixtures thereof; and (D) polychlorinated biphenyls, asbestos, molds that would reasonably be expected to have an adverse effect on human health and urea formaldehyde foam insulation.

SECTION 3.17 Specified C Co Contracts.

(a) *Status of Specified C Co Contracts.* Each Specified C Co Contract is a legal, valid and binding obligation of C Co or a C Co Subsidiary, as applicable, in full force and effect and enforceable against C Co or a C Co Subsidiary in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors’ rights generally and subject to the effect of general principles of equity. To the knowledge of C Co, C Co has not received written notice, and has no reason to believe, that any Specified C Co Contract is not a legal, valid and binding obligation of the counterparty thereto, in full force and effect and enforceable against such counterparty in accordance with its terms. Except as would not reasonably be expected to have a C Co Material Adverse Effect, neither C Co nor any of the C Co Subsidiaries is and, to C Co’s knowledge, no counterparty is, in breach or violation of, or default under, any Specified C Co Contract. None of C Co or any of the C Co Subsidiaries have received any written claim of default under any Specified C Co Contract. To C Co’s knowledge, no event has occurred which would result in a breach or violation of, or a default under, any Specified C Co Contract (in each case, with or without notice or lapse of time or both).

(b) For purposes of this Agreement, the term “*Specified C Co Contract*” means any of the following Contracts (together with all exhibits and schedules thereto) to which C Co or any C Co Subsidiary is a party or by which C Co or any C Co Subsidiary or any of their respective properties or assets are bound or affected as of the date hereof:

(i) any limited liability company agreement, joint venture or other similar agreement or arrangement relating to the formation, creation, operation, management or control of any partnership or joint venture that is material to the business of C Co and the C Co Subsidiaries, taken as a whole, other than any such limited liability company, partnership or joint venture that is a C Co Subsidiary;

(ii) any Contract (other than among consolidated C Co Subsidiaries) relating to (A) indebtedness for borrowed money and having an outstanding principal amount in excess of

\$5,000,000 or (B) conditional sale arrangements, obligations secured by a Lien, or interest rate or currency hedging activities, in each case in connection with which the aggregate actual or contingent obligations of C Co and the C Co Subsidiaries under such Contract are greater than \$5,000,000;

(iii) any Contract filed or required to be filed as an exhibit to C Co’s Annual Report on Form 10-K pursuant to Item 601(b)(10) of Regulation S-K under the Securities Act or disclosed or required to be disclosed by C Co in a Current Report on Form 8-K, other than C Co Plans disclosed in *Section 3.11(a)*;

(iv) any Contract that purports to limit the right of C Co or the C Co Subsidiaries (A) to engage or compete in any line of business or (B) to compete with any person or operate in any location, in the case of each of (A) and (B), in any respect material to the business of C Co and the C Co Subsidiaries, taken as a whole;

(v) any Contract that (A) contains most favored customer pricing provisions (other than Contracts entered into in the ordinary course of business consistent with past practice) or (B) grants any exclusive rights, rights of first refusal, rights of first negotiation or similar rights to any person, in each case under this clause (B) in a manner which is material to the business of C Co and the C Co Subsidiaries, taken as a whole;

(vi) any Contract entered into after January 1, 2005 or not yet consummated for the acquisition or disposition, directly or indirectly (by merger or otherwise), of assets or capital stock or other equity interests of another person for aggregate consideration under such Contract in excess of \$15,000,000;

(vii) any Contract which by its terms calls for aggregate payments by C Co and the C Co Subsidiaries under such Contract of more than \$5,000,000 over the remaining term of such Contract;

(viii) any Contract of the type specified in *Section 5.01(n)* or between or among C Co or a C Co Subsidiary, on the one hand, and any of their respective affiliates (other than C Co or any C Co Subsidiary), on the other hand, that involves amounts of more than \$60,000;

(ix) any acquisition, disposition or similar Contract pursuant to which C Co or any of the C Co Subsidiaries has continuing indemnification, “earn-out” or other contingent payment obligations, in each case, that would reasonably be expected to result in payments in excess

of \$5,000,000;

- (x) any Contract with any labor union or association representing any employee of C Co or any of the C Co Subsidiaries;
- (xi) any Contract granting any registration or similar right in respect of securities of C Co or any of the C Co Subsidiaries; and
- (xii) any Contract required to be identified in *Section 3.11(a) or 3.13(b) of the C Co Disclosure Schedule*.

A true and complete list of the Specified C Co Contracts as of the date hereof is set forth in *Section 3.17(b) of the C Co Disclosure Schedule*, except for Specified C Co Contracts filed prior to the date hereof as exhibits to SEC Reports.

SECTION 3.18 Insurance. *Section 3.18 of the C Co Disclosure Schedule* sets forth a complete and correct list of all material insurance policies owned or held by C Co and each C Co Subsidiary. With respect to each such insurance policy: (i) the policy is legal, valid, binding and enforceable in accordance with its terms and, except for policies that have expired under their terms in the ordinary course, is in full

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force and effect; (ii) neither C Co nor any C Co Subsidiary is in material breach or default (including any such breach or default with respect to the payment of premiums or the giving of notice), and, to C Co's knowledge, no event has occurred which, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification, under the policy; (iii) to the knowledge of C Co, no insurer on the policy has been declared insolvent or placed in receivership, conservatorship or liquidation; and (iv) to the knowledge of C Co, no notice of cancellation or termination has been received other than in connection with ordinary renewals. The coverage under the insurance policies set forth on *Section 3.18 of the C Co Disclosure Schedule* is (subject to reasonable deductibles) sufficient to provide adequate insurance coverage for all of the assets and properties of C Co and the C Co Subsidiaries for all material risks in compliance with all applicable law and C Co Permits. There are no pending claims against any such insurance policy as to which the insurers have denied liability.

SECTION 3.19 Material Customers.

(a) *Relations with Material Customers.* The ten largest (by revenue) customers of C Co and the C Co Subsidiaries, and annual revenues related to such customers for each of: (i) the fiscal year ended December 31, 2004 and (ii) the period from January 1, 2005 through the date hereof, are listed by division of C Co on *Section 3.19(a) of the C Co Disclosure Schedule* (the "*C Co Material Customers*"). No Material C Co Customer has given C Co or any of the C Co Subsidiaries any written notice terminating, suspending, or reducing in any material respect, or specifying an intention to terminate, suspend, or reduce in any material respect in the future, or otherwise reflecting an adverse charge in, the business relationship between such customer and C Co or the C Co Subsidiaries, and, to C Co's knowledge, there has not been any materially adverse change in the business relationship of C Co or the C Co Subsidiaries with any such customer.

(b) *Former Customers.* *Section 3.19(b) of the C Co Disclosure Schedule* sets forth the names and annual revenues for each of (i) the fiscal year ended December 31, 2004 and (ii) the period from January 1, 2005 through the date hereof, of the C Co Material Customers which have cancelled or terminated their relationships with C Co during the twelve months prior to the date of this Agreement.

SECTION 3.20 Affiliate Transactions. Except for arrangements between C Co the C Co Subsidiaries which do not involve payments by any party of more than \$50,000 annually in the aggregate and which do not restrict the ability of C Co and the C Co Subsidiaries to engage in any line of business in any geographic area, no shareholder, officer, or director of C Co or any of the C Co Subsidiaries, or to C Co's knowledge, any member of his or her immediate family, or any person controlled by any of the foregoing persons (collectively, "*C Co Related Persons*") (i) owes any amount to C Co or any of the C Co Subsidiaries nor do C Co or any of the C Co Subsidiaries owe any amount (other than employment compensation or benefits), or has it committed to make any loan or extend or guarantee credit to or for the benefit of, any C Co Related Person, (ii) has made any claim or cause of action or any action, suit, or proceeding whatsoever against C Co or any of the C Co Subsidiaries, (iii) to C Co's knowledge, (other than through stock ownership in a public company) has any direct or indirect ownership interest in, or is an officer, director, employee, consultant, or agent of, any person that has a business relationship with C Co (or any of the C Co Subsidiaries) or that competes with C Co or any of the C Co Subsidiaries, or (iv) owns, directly or indirectly, in whole or in part, any real property, leasehold interests, or other property or any Permits, the use of which is necessary for the conduct of the business of C Co or the C Co Subsidiaries as currently conducted and as proposed to be conducted. To C Co's knowledge, no C Co Related Person has any direct or indirect (other than through stock ownership in a public company) interest in any Contract to which C Co or the C Co Subsidiaries is a party or by which it is bound.

SECTION 3.21 Adoption by Board. The C Co Board, by resolutions duly adopted at a meeting duly called and held, has duly (i) determined that this Agreement, the Merger, the Share Issuance and the Articles Amendment are fair to and in the best interests of C Co and its shareholders, (ii) adopted this

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Agreement, and (iii) recommended that the shareholders of C Co approve this Agreement, the Merger, the Share Issuance and the Articles Amendment (collectively, the "*C Co Board Recommendation*") and directed that this Agreement, the Share Issuance and the Articles Amendment be submitted for approval of C Co's shareholders at the C Co Shareholders' Meeting (collectively, the "*C Co Proposal*").

SECTION 3.22 C Co Rights Agreement. Prior to the date of this Agreement, C Co has amended the C Co Rights Agreement so that (a) neither the execution, delivery or performance of this Agreement nor the consummation of the transactions contemplated hereby will (i) cause the Rights (as defined in the C Co Rights Agreement) to become exercisable, (ii) cause F Co or any of its Affiliates or Associates (each as defined in the C Co Rights Agreement) to become an Acquiring Person (as defined in the C Co Rights Agreement) or (iii) give rise to a Distribution Date or Share Acquisition Date (each as defined in the C Co Rights Agreement), and (b) the Rights will expire in their entirety immediately prior to the Effective Time without any payment being made in respect thereof. C Co has made available to F Co a complete and correct copy of such amendment.

SECTION 3.23 Opinions of Financial Advisors. C Co has received the opinions of each of Citigroup Global Markets, Inc. and Deutsche Bank Securities Inc. to the effect that, as of the date of the opinion and subject to the matters referred to therein, the Exchange Ratio and payment of the Special Dividend under this Agreement are fair to the shareholders of C Co from a financial point of view.

SECTION 3.24 Brokers. No broker, finder or investment banker other than Citigroup Global Markets, Inc. and Deutsche Bank Securities Inc. is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of C Co.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF
F CO**

Except as set forth in the disclosure schedule delivered by F Co to C Co concurrently with the execution and delivery of this Agreement (the “*F Co Disclosure Schedule*”), F Co hereby represents and warrants to C Co as follows:

SECTION 4.01 Organization and Qualification; F Co Subsidiaries.

(a) *Organization and Qualification.* F Co and each subsidiary of F Co (each, a “*F Co Subsidiary*”) is a corporation, limited partnership, limited liability company or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization (except, in the case of good standing, for legal entities organized under the laws of any jurisdiction that does not recognize such concept). F Co and each F Co Subsidiary has the requisite corporate or entity power and authority to own, lease, or otherwise hold the assets and properties owned, leased, or otherwise held by it and necessary to carry on its business as presently conducted. F Co and each F Co Subsidiary is in good standing and is duly qualified to conduct business in each jurisdiction in which the nature of its business or the ownership of property make such qualification necessary, except where the failure to be so qualified would not reasonably be expected to have a F Co Material Adverse Effect.

(b) *List of F Co Subsidiaries.* A true and complete list of all F Co Subsidiaries, together with the jurisdiction of organization of each F Co Subsidiary and the percentage of the outstanding capital stock (or other equity interest) of each F Co Subsidiary owned by F Co, each other F Co Subsidiary and any other person, is set forth in *Section 4.01(b) of the F Co Disclosure Schedule*. F Co does not, directly or indirectly, own any capital stock (or other equity interest) of any person other than F Co Subsidiaries set forth on *Section 4.01(b) of the F Co Disclosure Schedule*. F Co is not a direct or indirect participant in any material joint venture or other equivalent arrangement.

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(c) *Investments.* *Section 4.01(c) of the F Co Disclosure Schedule* lists any and all persons of which F Co directly or indirectly owns an equity or similar interest, or an interest convertible into or exchangeable or exercisable for an equity or similar interest, of less than 50% (collectively, the “*F Co Investments*”). F Co or a F Co Subsidiary, as the case may be, owns all F Co Investments free and clear of all Liens, and there are no outstanding contractual obligations of F Co or any F Co Subsidiary permitting the repurchase, redemption or other acquisition of any of its interest in F Co Investments or requiring F Co or any F Co Subsidiary to provide funds to, make any investment (in the form of a loan, capital contribution or otherwise) in, provide any guarantee with respect to, or assume, endorse or otherwise become responsible for the obligations of, any F Co Investment.

(d) The term “*F Co Material Adverse Effect*” means any change, circumstance, effect, event or occurrence that (i) would be materially adverse to the assets, liabilities, business, financial condition or results of operations of F Co and F Co Subsidiaries taken as a whole, other than any change, circumstance, effect, event or occurrence resulting from (A) changes in general economic conditions affecting the United States, (B) general changes or developments in the F Co Industries, (C) the announcement of this Agreement and the transactions contemplated hereby, including any termination of, reduction in or similar negative impact on relationships, contractual or otherwise, with any customers, suppliers, distributors, partners or employees of F Co and F Co Subsidiaries to the extent due to the announcement and performance of this Agreement or the identity of the parties to this Agreement, or the performance of this Agreement and the transactions contemplated hereby, including compliance with the covenants set forth herein, unless, in the case of the foregoing clauses (A) and (B), such changes referred to therein have a materially disproportionate effect on F Co and F Co Subsidiaries taken as a whole relative to other participants in the F Co Industries, or (ii) would have a material adverse effect on the ability of F Co to perform its obligations hereunder or under any Ancillary Agreements to which it is or will become a party, or to consummate the transactions contemplated hereby or thereunder on a timely basis. For purposes of this *Section 4.01(d)*, “*F Co Industries*” shall mean retail bank core processing systems, customer channel-solutions (online-retail and commercial, ATM, branch, teller and call center), consumer lending and servicing systems, including mortgage loan origination and servicing systems and data center outsourcing services to credit unions, community banks, thrifts, data centers, banks and other financial institutions, title insurance and closing services and providing real estate tax, credit, flood, default and appraisal services and multiple listing software and services to financial institutions and loan servicers.

SECTION 4.02 Certificate of Incorporation and Bylaws. F Co has made available to C Co a complete and correct copy of the Certificate of Incorporation and the Bylaws (or comparable organizational documents), each as amended to date, of F Co and each F Co Subsidiary. Such Certificate of Incorporation and Bylaws (or comparable organizational documents) are in full force and effect. Neither F Co nor any F Co Subsidiary is, nor has been, in violation of any of the provisions of its Certificate of Incorporation or Bylaws (or comparable organizational documents). F Co has made available to C Co complete and correct copies of the minutes of all meetings of F Co Board (and each committee thereof), other than the portion of any minutes regarding the deliberations of F Co Board (or any committee thereof) in connection with entering into this Agreement.

SECTION 4.03 Capitalization.

(a) *F Co Capitalization.* The authorized capital stock of F Co consists of 400,000,000 shares of F Co Common Stock. As of August 31 2005, (i) 200,000,000 shares of F Co Common Stock are issued and outstanding (excluding shares of F Co Common Stock held in the treasury of F Co), all of which are duly authorized, validly issued, fully paid and nonassessable and were issued free of preemptive (or similar) rights; (ii) no shares of F Co Common Stock are held in the treasury of F Co, (iii) no shares of F Co Common Stock are held by F Co Subsidiaries, and (iv) 16,216,216 shares of F Co Common Stock are reserved for future issuance in connection with the F Co 2005 Stock Incentive Plan (the “*F Co Stock Option Plan*”) (including shares reserved for issuance pursuant to outstanding options granted pursuant to

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the F Co Stock Option Plan (“*F Co Stock Options*”). Since August 31, 2005 through the date of this Agreement, other than in connection with the issuance of shares of F Co Common Stock pursuant to the exercise of F Co Stock Options outstanding as of August 31, 2005, there has been no change in the number of shares of outstanding capital stock of F Co or the number of outstanding F Co Stock Options. *Section 4.03(a)(i) of the F Co Disclosure Schedule* sets forth, as of August 31, 2005, the number of shares of F Co Common Stock issuable upon exercise of outstanding F Co Stock Options granted under F Co Stock Option Plan. As of such date, there were no outstanding restricted stock unit awards or other equity awards under the F Co Stock Option Plan, except outstanding F Co Stock Options. F Co has provided to C Co a complete and correct list setting forth each F Co Stock Option outstanding as of August 31, 2005, the number of shares of F Co Common Stock issuable thereunder, the expiration date and the exercise price thereof. As of the date hereof, the outstanding shares of F Co

Common Stock are held of record by the persons, with the addresses of record and in the amounts, as set forth on *Section 4.03(a)(iii) of the F Co Disclosure Schedule*.

(b) *Other Rights.* Except as set forth in *Section 4.03(a)*, there are no (i) subscriptions, calls, contracts, options, warrants or other rights, agreements, arrangements, understandings, restrictions or commitments of any character to which F Co or any F Co Subsidiary is a party or by which F Co or any F Co Subsidiary is bound relating to the issued or unissued capital stock of F Co or any F Co Subsidiary or obligating F Co or any F Co Subsidiary to issue or sell any shares of capital stock of, other equity interests in or debt securities of, F Co or any F Co Subsidiary, (ii) debt or equity securities of F Co or any F Co Subsidiary convertible, exchangeable or exercisable for shares of capital stock or voting securities of F Co or any F Co Subsidiary (or any other securities, which, whether after notice, lapse of time, or payment of monies, are or would be convertible into or exchangeable or exercisable for capital stock or voting securities of F Co or any F Co Subsidiary), or (iii) equity equivalents, stock appreciation rights, phantom stock, ownership interests in F Co or any F Co Subsidiary or similar rights. There are no outstanding contractual obligations of F Co or any F Co Subsidiary to repurchase, redeem or otherwise acquire any outstanding securities of F Co or any F Co Subsidiary, to vote or to dispose of any shares of F Co Common Stock or any capital stock of any F Co Subsidiary or to make any investment (in the form of a loan, capital contribution or otherwise) in, any F Co Subsidiary or any other person. None of F Co or any F Co Subsidiary is a party to any stockholders' agreement, voting trust agreement or registration rights agreement relating to any equity securities of F Co or any F Co Subsidiary or any other Contract relating to disposition, voting or dividends with respect to any equity securities of F Co or of any F Co Subsidiary (other than the No-Shop Agreement and the Shareholders Agreement). No dividends on F Co Common Stock have been declared or have accrued from December 31, 2004 through the date hereof. All of the outstanding shares of F Co Common Stock have been issued by F Co in compliance with applicable federal and state securities laws.

(c) *Validity of Certain Prior Issuances.* Each outstanding share of capital stock (or other equity interest) of each F Co Subsidiary is duly authorized, validly issued, fully paid and nonassessable and was issued free of preemptive (or similar) rights, and each such share is owned by F Co or another F Co Subsidiary, free and clear of all options, rights of first refusal, agreements, limitations on F Co's or any F Co Subsidiary's voting, dividend or transfer rights, charges and other encumbrances or Liens of any nature whatsoever.

SECTION 4.04 Authority Relative to This Agreement. F Co has all necessary corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to which it is or will become a party, to perform its obligations hereunder and thereunder and to consummate the Merger and the Other Transactions. The execution, delivery and performance of this Agreement and each Ancillary Agreement to which it is or will become a party by F Co, and the consummation by F Co of the Merger and the Other Transactions have been duly and validly authorized by all necessary corporate action on the part of F Co and no other corporate proceedings on the part of F Co are or will be necessary to authorize this

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Agreement or to consummate the Merger and the Other Transactions (other than the adoption of this Agreement by the stockholders of F Co and the filing and recordation of the Certificate of Merger, in each case as required by the provisions of the DGCL and the DLLCA). Except for the adoption of this Agreement by the stockholders of F Co in accordance with the provisions of the DGCL, the affirmative vote or consent of the holders of any class or series of capital stock or other securities of F Co, or any of them, is not necessary to approve any agreement or instrument contemplated hereby or by any of the Other Transactions other than this Agreement or to consummate any of the Other Transactions contemplated hereby or thereby. This Agreement has been duly and validly executed and delivered by F Co and assuming the due authorization, execution and delivery by C Co, constitutes a legal, valid and binding obligation of F Co, enforceable against it in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally and subject to the effect of general principles of equity. Each other Ancillary Agreement to which F Co will be a party (the "*F Co Closing Documents*"), upon execution and delivery by F Co, will constitute a legal, valid and binding obligation of F Co, enforceable against it in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally and subject to the effect of general principles of equity.

SECTION 4.05 No Conflict; Required Filings and Consents.

(a) *No Conflict.* The execution and delivery of this Agreement by F Co do not, and the execution and delivery of the F Co Closing Documents by F Co, the performance of this Agreement by F Co, the performance of the F Co Closing Documents by F Co, and the consummation by F Co of the Merger, the Share Issuance and the Other Transactions will not, (i) conflict with, violate or result in a breach of the Certificate of Incorporation or Bylaws (or comparable organizational documents) of F Co or any F Co Subsidiary, (ii) assuming that all consents, approvals and other authorizations described in *Section 4.05(b)* (other than clause (vii) thereof) have been obtained and that all filings and other actions described in *Section 4.05(b)* (other than clause (vii) thereof) have been made or taken, conflict with or violate any law applicable to F Co or any F Co Subsidiary or by which any property or asset of F Co or any F Co Subsidiary is bound or affected, or (iii) result in any breach or violation of or constitute a default (or an event which, with notice or lapse of time or both, would become a default) under, require consent or result in a loss of a benefit under, give rise to an obligation under, give to others any right of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any property or asset of F Co or any F Co Subsidiary pursuant to, any Contract to which F Co or any F Co Subsidiary is a party or by which F Co or any F Co Subsidiary or any property or asset of F Co or any F Co Subsidiary is bound or affected, except, with respect to clauses (ii) and (iii), for any such conflicts, violations, breaches, defaults or other occurrences which would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect.

(b) *Consents and Approvals.* The execution and delivery of this Agreement by F Co do not, and the performance of this Agreement by F Co and the consummation by F Co of the Merger and the Other Transactions will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, except for (i) applicable requirements of the Exchange Act, (ii) the pre-merger notification requirements of the HSR Act and the competition or merger control laws of any other applicable jurisdiction, (iii) the filing with the SEC of the Proxy Statement, (iv) the filing and recordation of appropriate merger documents as required by the DGCL and appropriate documents with the relevant authorities of other states in which F Co or any F Co Subsidiary is qualified to do business, (v) if required, the filing of a Form D with the SEC and any applicable state securities regulatory authorities, (vi) the consents, notices and approvals set forth on *Section 4.05(b) of the F Co Disclosure Schedule*, and (vii) any such consents, approvals, authorizations, permits, notifications or filings the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to have a

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F Co Material Adverse Effect. F Co received and provided to C Co a true and correct copy of a letter agreement with certain banks regarding financing dated as of the date hereof (the "Bank Letter Agreement"). As of the date of this Agreement, the Bank Letter Agreement has not been rescinded or amended in any manner and remains in full force and effect. F Co is not aware of any facts or circumstances that create a reasonable basis for F Co to believe that it cannot consummate a Bank Letter Financing.

SECTION 4.06 Permits; Compliance; Regulatory Matters.

(a) *Permits.* Each of F Co and each F Co Subsidiary has all franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals and orders of any Governmental Authority necessary for each such entity to own, lease and operate its properties or to carry on its business as it is now being conducted (the "F Co Permits"), except for any such F Co Permit the failure of which to have, or the suspension or cancellation of which would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect. Neither F Co nor any F Co Subsidiary has received any written notification from any Governmental Authority threatening to revoke any such person's F Co Permit. To F Co's knowledge, all such F Co Permits are renewable by their respective terms in the ordinary course of business without the need to comply with any special qualification procedures or to pay any amounts other than routine filing fees. The consummation of the Merger, in and of itself will not cause the revocation or cancellation of any F Co Permits other than any F Co Permit the revocation or cancellation of which would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect.

(b) *Regulatory Approvals.* As of the date of this Agreement, to F Co's knowledge, there is no reason why (i) all regulatory approvals from any Governmental Authority required for the consummation of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions should not be obtained on a timely basis or (ii) any condition to the consummation of the Merger, the Share Issuance, the Articles Amendment and the Other Transactions set forth in Sections 7.01 and 7.02 should not be satisfied on a timely basis.

(c) *Compliance with Law.* Each of F Co and each F Co Subsidiary is in material compliance with any law or Operating Rule applicable to such entity or by which any property or asset of such entity is bound or affected, is not currently in material violation of any such law or Operating Rule, and there have been no notices or orders of noncompliance issued to F Co or any F Co Subsidiaries under or in respect of any such laws or Operating Rules. Neither F Co nor any F Co Subsidiary has received any written notice from a Governmental Authority alleging that the Company or any Subsidiary has failed to comply (i) in any respect with any applicable laws or Operating Rules relating to the security of consumer information or (ii) in any material respect with any applicable laws or Operating Rules relating to consumer protection and/or consumer financial services in either case, other than such notices received in the ordinary course of its business.

(d) *Data Security.* To F Co's knowledge, there are no facts or circumstances that would require F Co or any F Co Subsidiary to give notice to any customers, consumers or other similarly situated individuals, pursuant to California Civil Code Section 1798.82 or any similar law, of any actual or perceived data security breaches, except for such notices given in the ordinary course of its business or the failure of which to provide would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect.

(e) *Internal Controls.* F Co has established and maintains a system of internal accounting controls that is designed to ensure the accurate recording, processing, summarizing, and reporting of financial information. F Co has not received any material complaint, allegation, assertion or claim in writing regarding the accounting practices, procedures, methodologies or methods of F Co or its internal accounting controls, including any such complaint, allegation assertion or claim that F Co has engaged in

questionable accounting practices. F Co is not aware of any significant deficiencies or material weaknesses in the design or operation of its internal accounting controls which are reasonably likely to adversely affect F Co's ability to record, process, summarize and report financial information. F Co is not aware of any material fraud or allegations of fraud that involves senior management or other employees who have a significant role in internal controls.

SECTION 4.07 SEC Filings; Financial Statements; Undisclosed Liabilities.

(a) *No SEC Filings.* Neither F Co nor any F Co Subsidiary is required to file any form, report or other document with the SEC.

(b) *Financial Statements.* F Co has provided to C Co: (i) the audited combined balance sheets of F Co and F Co Subsidiaries as of December 31, 2004 and 2003 and the related audited combined statements of earnings, equity and comprehensive earnings and cash flows for each of the years ended December 31, 2004, 2003 and 2002 (the "Annual Combined Financial Statements"), together with the notes thereto, and (ii) the unaudited combined balance sheet of F Co and F Co Subsidiaries as at June 30, 2005 (the "Interim Balance Sheet"), and the related combined statements of earnings and cash flows, for the three months then ended (the "Unaudited Financial Statements"). The Unaudited Financial Statements, together with the Annual Combined Financial Statements are referred to as the "F Co Financial Statements". The F Co Financial Statements have been prepared in accordance with GAAP, and fairly present, in all material respects, the combined financial condition, assets and liabilities, results of operations and cash flows of F Co and F Co Subsidiaries as of the dates, and for the periods, indicated therein, subject in the case of the Unaudited Financial Statements to lack of footnotes and a statement of changes in equity and comprehensive earnings and normal year end adjustments that will not be material. Since December 31, 2004, there has not been any change of F Co's accounting principles, methods, or policies except as required by GAAP or as would not reasonably be expected to have a F Co Material Adverse Effect. All of F Co Subsidiaries are consolidated for accounting purposes.

(c) *No Undisclosed Liabilities.* Neither F Co nor any of F Co Subsidiaries has any liabilities of a nature required by GAAP to be reflected in a consolidated balance sheet or the notes thereto, except liabilities that (i) are accrued or reserved against in the F Co Financial Statements or are reflected in the notes thereto, (ii) were incurred in the ordinary course of business since December 31, 2004 or otherwise in accordance with Section 5.02, (iii) are incurred pursuant to the transactions contemplated by this Agreement, (iv) have been discharged or paid in full prior to the date of this Agreement in the ordinary course of business or (v) as would not reasonably be expected to have, individually or in the aggregate, a F Co Material Adverse Effect.

SECTION 4.08 Information Supplied. None of the information supplied by F Co for inclusion or incorporation by reference in the Proxy Statement or the Other Filings will, in the case of the Proxy Statement, at the date it is first mailed to C Co's shareholders or at the time of the C Co Shareholders' Meeting or at the time of any amendment or supplement thereof, or, in the case of any Other Filing, at the date it is first mailed to C Co's shareholders or, at the date it is first filed with the SEC, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. No representation is made by F Co with respect to statements made or incorporated by reference therein based on information supplied by C Co in connection with the preparation of the Proxy Statement or the Other Filings for inclusion or incorporation by reference therein. All Other Filings that are filed by F Co will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations promulgated thereunder.

SECTION 4.09 Absence of Certain Changes or Events. Since December 31, 2004, there has not been any F Co Material Adverse Effect. Since December 31, 2004 and prior to the date hereof, except as set forth in the F Co Financial Statements or as expressly contemplated by this Agreement, (a) F Co

F Co Subsidiaries have conducted their businesses only in the ordinary course of business and in a manner consistent with past practice, (b) neither F Co nor any F Co Subsidiary has terminated or suffered any material amendment of any Specified F Co Contract that has or would reasonably be expected to have an F Co Material Adverse Effect, (c) other than in the ordinary course of business consistent with past practice, neither F Co nor any F Co Subsidiary has increased the salaries or other compensation of, or made any advance or loan to, any of its current or former directors or executive officers or made any increase in, or any addition to, other benefits to which any of its current or former directors or executive officers may be entitled, and (d) neither F Co nor any F Co Subsidiary has: (i) suffered any damage, destruction or loss (regardless of whether covered by insurance), other than in the ordinary course of business, that has had or would reasonably be expected to have a F Co Material Adverse Effect; or (ii) taken any action that would be prohibited by clauses (a) through (r) of Section 5.02 if taken after the date hereof.

SECTION 4.10 Absence of Litigation. There is no Action pending or, to the knowledge of F Co, threatened against F Co or any F Co Subsidiary, or any property or asset of F Co or any F Co Subsidiary, before any Governmental Authority or arbitrator (a) that questions the validity of this Agreement or any other Transaction Document, the performance by F Co of the obligations to be performed by it hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or (b) except as would not reasonably be expected to have a F Co Material Adverse Effect. As of the date of this Agreement, no executive officer or director of F Co is a defendant in any Action in connection with his status as an executive officer or director of F Co or any F Co Subsidiary. Neither F Co nor any F Co Subsidiary nor any property or asset of F Co or any F Co Subsidiary is subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of F Co, continuing investigation by, any Governmental Authority, or any order, writ, judgment, injunction, decree, determination or award of any Governmental Authority.

SECTION 4.11 Employee Benefit Plans.

(a) *Benefit Plans.* Section 4.11(a) of the F Co Disclosure Schedule lists: (i) all employee benefit plans (as defined in Section 3(3) of ERISA) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other benefit plans, programs or arrangements; and (ii) all material employment, termination, severance or other contracts, agreements or commitments to which F Co or any F Co Subsidiary is a party, with respect to which F Co or any F Co Subsidiary has or may reasonably be expected to have any obligation or which are maintained, contributed to or sponsored by F Co or any F Co Subsidiary for the benefit of any current or former employee, consultant, officer or director of F Co or any F Co Subsidiary (collectively, the “F Co Plans”). Section 4.11(a) of the F Co Disclosure Schedule separately lists each F Co Plan sponsored by F Co (collectively, the “F Co Separate Plans”). F Co has made available to C Co a complete and correct copy (where applicable) of (u) each F Co Plan (or, where a F Co Plan has not been reduced to writing, a summary of all material terms of such F Co Plan), (v) each trust or funding arrangement prepared in connection with each such F Co Plan, (w) the most recently filed annual report on IRS Form 5500, (x) the most recently received IRS determination letter for each such F Co Plan, (y) the most recently prepared actuarial report and financial statement in connection with each such F Co Plan, and (z) the most recent summary plan description, any summaries of material modification, any employee handbooks, and any material written communications (or a description of any material oral communications) by F Co or F Co Subsidiaries to any current or former employees, consultants, or directors of F Co or any F Co Subsidiary concerning the extent of the benefits provided under a F Co Plan.

(b) *Pension Plans; Multiemployer Plans.* Except as set forth on Section 4.11(b) of the F Co Disclosure Schedule, none of F Co or any F Co Subsidiary or any other person that, together with F Co or any F Co Subsidiary, is or was treated as a single employer under Section 414(b), (c), (m) or (o) of the Code (each, together with F Co and any F Co Subsidiary, a “F Co ERISA Affiliate”), has now or at any time

within the past three years (and in the case of any such other person, only during the period within the past three years that such other person was a F Co ERISA Affiliate) contributed to, sponsored, or maintained (i) a pension plan (within the meaning of Section 3(2) of ERISA) subject to Section 412 of the Code or Title IV of ERISA; (ii) a Multiemployer Plan; or (iii) a Multiple Employer Plan for which a F Co ERISA Affiliate would reasonably be expected to incur liability under Section 4063 or 4064 of ERISA.

(c) *Change in Control Agreements.* Section 4.11(c) of the F Co Disclosure Schedule lists each F Co plan (each agreement thereon being referred to as a “F Co Change in Control Agreement”) that would reasonably be expected to result in the payment to any present or former employee, director or consultant of F Co or any F Co Subsidiary of any money or other property or accelerate or provide any other rights or benefits to any current or former employee, director or consultant of F Co or any F Co Subsidiary as a result of the consummation of the Merger, the Share Issuance, the Articles Amendment or any other transaction contemplated by this Agreement (whether alone or in connection with any other event). No payment or benefit which will or may be made by F Co or any F Co Subsidiaries with respect to any other “disqualified individual” will be characterized as a “parachute payment,” within the meaning of Code Section 280G(B)(2). In the event that the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby (either alone or upon the occurrence of any additional or subsequent events) results or could result in any payment or benefit which will be characterized as a “parachute payment,” Section 4.11(c) of the F Co Disclosure Schedule shall list all persons who F Co reasonably believes are, with respect to F Co or any of the F Co Subsidiaries, “disqualified individuals” as determined as of the date hereof.

(d) *Qualified Plans.* Each F Co Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS that F Co Plan is so qualified, and, to the knowledge of F Co, no fact or circumstance exists that would reasonably be expected to result in the revocation of such letter.

(e) *Compliance.* Each F Co Plan has been established and administered in accordance with its terms, and in compliance with the applicable provisions of ERISA, the Code and other applicable laws, except to the extent such noncompliance, individually or in the aggregate, would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect. All amendments and actions required to bring each of F Co Plans into conformity in all material respects with all of the applicable provisions of ERISA and other applicable laws have been made or taken except to the extent that such amendments or actions are not required by law to be made or taken until a date after the Effective Time. Except to the extent it would not reasonably be expected to result in a F Co Material Adverse Effect, neither F Co nor any F Co Subsidiary has incurred or reasonably expects to incur, either directly or indirectly (including as a result of an indemnification obligation), any liability under Title 1 or IV of ERISA or the penalty, excise tax or joint and several liability provisions of the Code or any foreign law or regulation relating to employee benefit plans (including, without limitation, Section 406, 409, 502(i), 502(1), 4069 or 4212(c) of ERISA, or Section 4971, 4975 or 4976 of the Code), or under any agreement, instrument, statute, rule or legal requirement

pursuant to or under which F Co or any F Co Subsidiaries or any F Co Plan or pension plan has agreed to indemnify or is required to indemnify any person against liability incurred under, or for a violation or failure to satisfy the requirements of any such legal requirement, and to the knowledge of F Co, no event, transaction or condition has occurred, exists or is expected to occur which could result in any such liability to F Co or any F Co Subsidiary after the Effective Time.

(f) *Actions.* With respect to any F Co Plan, (i) no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the knowledge of F Co, threatened, except for those that would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect, (ii) to the knowledge of F Co, no facts or circumstances exist that would reasonably be expected to give rise to any such Actions, and (iii) no administrative investigation, audit or other administrative proceeding by the Department of Labor, the IRS or other Governmental Authority is pending, in progress or, to the knowledge of F Co, threatened, except for those that would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect.

(g) *Contributions.* All contributions and premiums required by law or by the terms of any F Co Plan have been timely made (without regard to any waivers granted in respect thereof) to any funds or trusts established thereunder or in connection therewith, and no accumulated funding deficiencies exist in any of such plans subject to Section 412 of the Code.

(h) *Reportable Events.* During the 12-month period ending on the date hereof, no “reportable event” (as defined in Section 4043 of ERISA and the regulations thereunder) for which the 30-day reporting requirement has not been waived or extended has occurred with respect to any of F Co Plans subject to Title IV of ERISA, nor has any event requiring notice to be provided under Section 4041(c)(3)(C) or 4063(a) of ERISA.

(i) *Filing Violations.* There has been no violation of ERISA in respect of the filing of applicable returns, reports, documents, and notices regarding any of F Co Plans with the Secretary of Labor or the Secretary of the Treasury or the furnishing of such notices or documents to the participants or beneficiaries of F Co Plans that would reasonably be expected to result in a F Co Material Adverse Effect.

(j) *Certain Notices.* F Co, each F Co Subsidiary, and any F Co ERISA Affiliate that maintains a “benefits plan” (within the meaning of Section 5000(b)(1) of ERISA) have complied with the notice and continuation requirements of Section 4980B of the Code or Part 6 of Title I of ERISA and the applicable regulations thereunder, except to the extent that failure to so comply would not reasonably be expected to result in a F Co Material Adverse Effect.

(k) *Unfunded Liabilities.* None of F Co, any F Co Subsidiary, any F Co ERISA Affiliate or any organization to which any is a successor or parent corporation, has divested any business or entity maintaining or sponsoring a defined benefit pension plan having unfunded benefit liabilities (within the meaning of Section 4001(a)(18) of ERISA) or transferred any such plan to any person other than F Co, any F Co Subsidiary, or any F Co ERISA Affiliate during the five-year period ending on the date of the Closing.

(l) *Prohibited Transactions.* To F Co’s knowledge, neither F Co nor any F Co Subsidiary nor any “party in interest” or “disqualified person” in respect of F Co Plans has engaged in a “prohibited transaction” (within the meaning of Section 4975 of the Code or Section 406 of ERISA) that would reasonably be expected to result in a F Co Material Adverse Effect.

(m) *Trustees.* None of F Co, any F Co Subsidiary, or any F Co ERISA Affiliate has terminated any F Co Plan subject to Title IV of ERISA, or incurred any outstanding liability under Section 4062 of ERISA to the PBGC or to a trustee appointed under Section 4042 of ERISA and no person (including without limitation the PBGC) has instituted any proceeding to terminate any F Co Plan or pension plan or appoint a trustee to administer any such F Co Plan or pension plan, in each case, except to the extent it would not reasonably be expected to result in a F Co Material Adverse Effect.

(n) *Acceleration of Payments.* Neither the execution and delivery of this Agreement nor the consummation of the Merger, the Share Issuance, the Articles Amendment and the transactions contemplated hereby will (i) result in any payment becoming due to any employee of F Co or any F Co

Subsidiary, (ii) increase any benefits otherwise payable under any F Co Plan or pension plan, or (iii) result in the acceleration of the time of payment, funding or vesting of any such benefits.

(o) *Stock Subject to F Co Plans.* No stock or other security issued by F Co or any F Co Subsidiary forms or has formed a material part of the assets of any F Co Plan.

(p) *Foreign Plans.* With respect to each F Co Plan that is not subject to United States law (a “*Foreign F Co Plan*”), except as would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect: (i) all employer and employee contributions to each Foreign F Co Plan required by law or by the terms of such Foreign F Co Plan have been made or, if applicable, accrued in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign F Co Plan, the liability of each insurer for any Foreign F Co Plan funded through insurance or the book reserve established for any Foreign F Co Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the date of this Agreement, with respect to all current and former participants in such plan according to the actuarial assumptions and valuations most recently used and consistent with applicable law to determine employer contributions to such Foreign F Co Plan and no transaction contemplated by this Agreement shall cause such assets, reserve or insurance obligations to be less than such benefit obligations; (iii) each Foreign F Co Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each Foreign F Co Plan is in compliance with all applicable law in all material respects.

(q) *Retiree Health and Welfare Benefits.* Except for the continuation coverage requirements of COBRA, F Co has no liability or potential liability for benefits to any employees following termination of employment or retirement under any of the F Co Plans that are employee welfare benefit plans. No written or oral representations have been made to any employee or former employee of F Co promising or guaranteeing any employer payment or funding for the continuation of medical, dental, life or disability coverage for any period of time beyond the end of the current plan year (except to the extent of coverage required under COBRA).

(r) *Section 409A.* Each F Co Plan that is a “nonqualified deferred compensation plan” subject to Code Section 409A has been operated since January 1, 2005 based upon a good faith, reasonable interpretation of Code Section 409A and Internal Revenue Service Notice 2005-1. No F Co Plan that is a

“nonqualified deferred compensation plan” that is not subject to Section 409A has been materially modified (as determined under Notice 2005-1) after October 3, 2004. No stock option granted under any F Co Plan has an exercise price that has been or may be less than the fair market value of the underlying stock as of the date such option was granted or has any feature for the deferral of compensation other than the deferral of recognition of income until the later of exercise or disposition of such option.

SECTION 4.12 Labor and Employment Matters.

(a) *Collective Bargaining; Union Organization.* Neither F Co nor any F Co Subsidiary is a party to any collective bargaining agreement or other labor union agreements applicable to persons employed by F Co or any F Co Subsidiary, nor to the knowledge of F Co, are there any formal activities or proceedings of any labor union to organize any such employees.

(b) *Complaints and Grievances.* There are no material unfair labor practice complaints, grievances or charges pending, or to F Co’s knowledge, threatened against F Co or any F Co Subsidiary before the NLRB or any other Governmental Authority or any current union representation questions involving employees of F Co or any F Co Subsidiary. There are no complaints, charges, or claims against F Co or any F Co Subsidiary pending or, to F Co’s knowledge, threatened to be brought or filed with the NLRB or any Governmental Authority based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any individual by F Co or any F Co Subsidiary.

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(c) *Strikes and Slowdowns.* There is no strike, controversy, slowdown, work stoppage, lockout, material arbitration, or material grievance or other material labor dispute or, to the knowledge of F Co, threatened in writing, by or with respect to any employees of F Co or any F Co Subsidiary.

(d) *Employee Relations.* To F Co’s knowledge, as of the date hereof, no officer or key employee, or any group of key employees, intends to terminate his, her, or their employment with F Co or any F Co Subsidiary. The employment of each officer and U.S. employee of F Co and F Co Subsidiaries is terminable at the will of F Co or such F Co Subsidiary, as the case may be. To F Co’s knowledge, no officer of F Co or any F Co Subsidiary is in violation of any material term of any employment, consultant, non-disclosure, non-competition, confidentiality, or other equivalent agreement.

SECTION 4.13 Real and Personal Property.

(a) *Owned Real Property.* Section 4.13(a) of the F Co Disclosure Schedule lists each parcel of real property owned by F Co or any F Co Subsidiary (the “F Co Owned Real Property”). F Co or a F Co Subsidiary has good, valid and marketable title to all of F Co Owned Real Property, in each case free and clear of all Liens, other than Permitted Liens.

(b) *Leased Real Property.* Section 4.13(b) of the F Co Disclosure Schedule lists by address each parcel of real property leased or subleased by F Co or any F Co Subsidiary (the “F Co Leased Properties”). F Co or an F Co Subsidiary has a valid leasehold interest in all of F Co Leased Properties, in each case free and clear of all Liens, except for Permitted Liens. Each of the leases and subleases relating to F Co Leased Properties is in full force and effect, there is no material default by F Co or any F Co Subsidiary or, to C Co’s knowledge, by the lessor under any such lease or sublease.

(c) *Improvements; Dispositions.* The structures, plants, improvements, systems, and fixtures located on each parcel of F Co Owned Real Property and, to F Co’s knowledge, each parcel of F Co Leased Properties, comply in all material respects with all laws, and are in good operating condition and repair, ordinary wear and tear excepted. Each such parcel of F Co Owned Real Property and, to F Co’s knowledge, each parcel of F Co Leased Properties, conforms in all material respects with all covenants or restrictions of record and conforms with all applicable building codes and zoning requirements and there is not, to F Co’s knowledge, any proposed change in any such governmental or regulatory requirements or in any such zoning requirements. None of F Co Owned Real Property or F Co Leased Properties reflected in the F Co Financial Statements has been disposed of and no such real property has been acquired by F Co or any F Co Subsidiary since the date of the Unaudited Financial Statements.

(d) *Personal Property.* F Co and each of F Co Subsidiaries has good and marketable title to its personal property, free and clear of all Liens, other than (i) the Permitted Liens, and (ii) those Liens that have arisen in the ordinary course of business consistent with past practice and that do not materially impair the ownership or use of such personal property. Such personal property is in such operating condition and repair as is suitable for the uses for which it is used in the business of F Co and F Co Subsidiaries, are not subject to any condition which materially interferes with the use thereof by F Co or F Co Subsidiaries, as the case may be, and constitute all personal property necessary to permit the Surviving F Co to carry on the business of F Co and F Co Subsidiaries after the Effective Time substantially as conducted by F Co and F Co Subsidiaries prior thereto.

SECTION 4.14 Intellectual Property.

(a) For purposes of this Agreement, “F Co Intellectual Property” shall mean all patents, inventions, copyrights, work subject to copyrights, software, trademarks, service marks, brand names, logos, domain names, trade dress, trade secrets, know-how, confidential or proprietary information (and all applications, registrations, continuations, divisionals, renewals and reissues relating thereto) and all other intellectual property rights of any kind or nature arising under U.S. or foreign law and which are owned by, used or held for use in the business of F Co and the F Co Subsidiaries.

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(b) *List of Intellectual Property.* Section 4.14 of the F Co Disclosure Schedule contains a true and complete list of all material U.S. and foreign registrations and applications for registration of F Co Intellectual Property.

(c) *Ownership.* F Co or F Co Subsidiaries are the sole and exclusive owners of all right, title and interest in and to all of the registered F Co Intellectual Property, and all pending applications filed by F Co or any F Co Subsidiary therefor, and each of the other copyrights in any works of authorship prepared by or for F Co or any F Co Subsidiary that resulted from or arose out of any work performed by or on behalf of F Co or by any employee, officer, consultant or contractor of any of them. To F Co’s knowledge and except as would not reasonably be expected to have a F Co Material Adverse Effect, F Co and F Co Subsidiaries are the sole and exclusive owners of, or have valid and continuing rights to use, sell or license, as the case may be, all other F Co Intellectual Property used, sold or licensed by F Co or F Co Subsidiaries in their businesses as presently conducted, free and clear of all Liens, except for Permitted Liens.

(d) *No Misappropriation.* To F Co’s knowledge, and except as would not reasonably be expected to have a F Co Material Adverse Effect, F Co Intellectual Property does not constitute an unauthorized use or misappropriation of any patent, copyright, trademark, trade secret or other equivalent right, of any person, and does not infringe, constitute an unauthorized use of, or violate any other right of any person. F Co Intellectual Property and third

party licensed intellectual property includes all of the material intellectual property rights necessary to enable F Co and F Co Subsidiaries to conduct their businesses in the manner in which such businesses are currently being conducted.

(e) *No Infringement.* Neither F Co nor any of F Co Subsidiaries: (i) is a party to any Action that involves a claim of infringement or misappropriation of any patent, copyright or trade secret right by F Co or any F Co Subsidiary against any third party; (ii) has provided written notice to any third party alleging infringement or misappropriation of any F Co Intellectual Property; (iii) is a party to any suit, action or proceeding which involves a claim of infringement or misappropriation of any F Co Intellectual Property by a third party against F Co or any F Co Subsidiary; or (iv) except as would not reasonably be expected to have a F Co Material Adverse Effect, has received any written notice from any third party alleging infringement or misappropriation of such third party's patents, copyrights or trade secrets. To F Co's knowledge and except as would not reasonably be expected to have a F Co Material Adverse Effect, the manufacturing, marketing, licensing, use or sale of the products or the performance of the services offered by F Co and F Co Subsidiaries in the ordinary course of their respective businesses as presently conducted do not currently infringe, and have not infringed upon any patent, copyright or trade secret right of any third party.

(f) *Protection of Trade Secrets.* Except as would not reasonably be expected to have an F Co Material Adverse Effect, no trade secret or any other non-public, proprietary information material to the business of F Co and the F Co Subsidiaries as presently conducted has been authorized to be disclosed or, to F Co's knowledge, has been actually disclosed by F Co or any F Co Subsidiary to any employee or any third party other than pursuant to a non-disclosure agreement or employment policy restricting the disclosure and use of such trade secret or non-public proprietary information. Except as would not reasonably be expected to have a F Co Material Adverse Effect, F Co and F Co Subsidiaries have taken adequate security measures to protect the secrecy and confidentiality of all trade secrets and any other material confidential information of F Co and F Co Subsidiaries which measures are reasonable in the industry in which F Co and F Co Subsidiaries operate.

(g) *No Claim of Ownership.* F Co and F Co Subsidiaries have not received written notice from any current or prior officers, employees, or contractors of F Co or any F Co Subsidiary claiming any ownership interest in any F Co Intellectual Property as a result of having been involved in the development of such property while employed by or performing services for F Co or any F Co Subsidiary.

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(h) *Software.* Except as would not reasonably be expected to have a F Co Material Adverse Effect, F Co's unmodified version of its material software that is marketed and licensed by F Co and F Co Subsidiaries to its customers (the "*F Co Software*") conforms in all material respects with the documentation prepared, marketed and licensed by F Co in respect of such F Co Software. Except as would not reasonably be expected to have a F Co Material Adverse Effect: (i) there are no defects, malfunctions or nonconformities in the unmodified version of F Co Software that cause the unmodified version of F Co Software, as properly installed, not to perform the material functions for which they are intended, on the whole, as provided in F Co's documentation; and (ii) there are no errors in any documentation, specifications, manuals, and user guides associated with or used or produced in the development, maintenance or marketing of F Co Intellectual Property.

SECTION 4.15 Taxes.

(a) *Payment and Filings.* All income, franchise and other material Tax Returns required to be filed by or with respect to F Co, any F Co Subsidiary or any Affiliated Group of which F Co or any F Co Subsidiary is or was a member have been timely filed or caused to be filed (taking into account any extension of time to file granted or obtained) and any such filed Tax Returns are true, correct and complete in all material respects. All material amounts of Taxes due and payable by or with respect to F Co, any F Co Subsidiary, or any Affiliated Group of which F Co or any F Co Subsidiary is or was a member have been fully and timely paid, except to the extent that F Co or the appropriate F Co Subsidiary has set aside adequate reserves in accordance with GAAP on the Interim Balance Sheet. Without taking into account any transactions contemplated by this Agreement and based upon activities to date, adequate reserves in accordance with GAAP have been established by F Co and the F Co Subsidiaries on the Interim Balance Sheet for all Taxes not yet due and payable in respect of tax periods ending on or before the date hereof.

(b) *Compliance.* F Co and F Co Subsidiaries have complied in all material respects with all applicable laws relating to the payment and withholding of Taxes and have duly and timely withheld from employee salaries, wages, other compensation, and other amounts and have paid over to the appropriate taxing authorities all amounts required to be so withheld and paid over under all applicable laws.

(c) *Returns.* F Co has delivered or made available to C Co true and complete copies of the portion of: (i) all federal, state, local, and foreign income and franchise Tax Returns that relate solely to F Co and each of the F Co Subsidiaries relating to the taxable periods since January 1, 2002; and (ii) any audit report issued within the last three years that relate solely to F Co or any of the F Co Subsidiaries.

(d) *No Other Claims.* As of the date hereof, to F Co's knowledge, with respect to F Co and F Co Subsidiaries, no claim has been made by a taxing authority in a jurisdiction where F Co or any of F Co Subsidiaries does not file a type of Tax Return such that it is or may be subject to that type of Tax in that jurisdiction.

(e) *Audits and Examinations.* As of the date hereof, (i) there are no pending or, to the knowledge of F Co, threatened audits, examinations, investigations or other proceedings in respect of any Taxes of F Co or any F Co Subsidiary with respect to which F Co or such F Co Subsidiary has been notified in writing; and (ii) neither F Co nor any F Co Subsidiary has waived any statute of limitations in respect of a material amount of Taxes or agreed to any extension of time with respect to an assessment or deficiency for a material amount of Taxes (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course).

(f) *No Adjustments.* Neither F Co nor any of F Co Subsidiaries nor any other person on any of their behalf has: (i) agreed to or is required to make any adjustments pursuant to Section 481(a) of the Code or any similar provision of law by reason of a change in accounting method initiated by F Co or any F Co Subsidiary or has any knowledge that the IRS or any other taxing authority has proposed any such

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adjustment or change in accounting method, or has any application pending with any taxing authority requesting permission for any changes in accounting methods that relate to the business or operations of F Co or any of F Co Subsidiaries; or (ii) executed or entered into a closing agreement pursuant to section 7121 of the Code or any predecessor provision thereof or any similar provision of law in respect of F Co or any of F Co Subsidiaries.

(g) *Tax Sharing.* Neither F Co nor any F Co Subsidiary is a party to any indemnification, allocation or sharing agreement with respect to Taxes that could give rise to a payment or indemnification obligation (other than (i) agreements among F Co and F Co Subsidiaries, (ii) the Tax Matters Agreement by and between F Co and Fidelity National Financial, Inc. dated as of March 4, 2005, and (iii) customary Tax indemnifications contained in credit or other commercial agreements the primary purpose of which does not relate to Taxes).

(h) *Deficiencies; Liens.* No deficiency for any material amount of Tax has been asserted or assessed by any Governmental Authority in writing against F Co or any F Co Subsidiary (or, to the knowledge of F Co, has been threatened or proposed), except for deficiencies which have been satisfied by payment, settled or been withdrawn or which are being contested in good faith in appropriate proceedings and are Taxes for which F Co or the appropriate F Co Subsidiary has set aside adequate reserves in accordance with GAAP on the most recent quarterly balance sheet. There are no Liens for Taxes, other than Permitted Liens, on the assets of F Co or any F Co Subsidiary.

(i) *Share Distributions.* All distributions of shares by, or consisting of shares of, F Co or any of F Co Subsidiaries purporting to qualify for tax-free treatment under Section 355 of the Code so qualified. With respect to each distribution of shares purporting to qualify for tax-free treatment under Section 355 of the Code, neither F Co nor any of F Co Subsidiaries has constituted a “distributing corporation” or a “controlled corporation” (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of shares qualifying for tax-free treatment under Section 355 of the Code (i) in the two years prior to the date of this Agreement in a distribution that constitutes part of a “plan” or “series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the Merger or any other transaction (whether occurring before or after the Effective Time) or (ii) in a distribution that could otherwise constitute part of a “plan” or “series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the Merger.

(j) *Real Property Holding Corporation.* F Co has not constituted a “U.S. real property holding corporation” within the meaning of Section 897(c)(2) of the Code at any time during the last five years.

(k) *Listed Transactions.* Neither F Co nor any F Co Subsidiary is required to make any disclosure to the IRS with respect to a “listed transaction” pursuant to Section 1.6011-4(b)(2) of the Treasury Regulations promulgated under the Code.

(l) *Reorganization.* As of the date of this Agreement, neither F Co nor any F Co Subsidiary has taken or agreed to take any action or knows of any fact or circumstances that could reasonably be expected to prevent the Merger from qualifying as a “reorganization” within the meaning of Section 368(a) of the Code. F Co has reviewed the representation certificate contained in **Exhibit G-2** and F Co does not know of any fact or circumstance which could reasonably be expected to prevent F Co from delivering such representation certificate.

SECTION 4.16 Environmental Matters.

(a) *Compliance with Environmental Laws.* Except as would not, individually or in the aggregate, reasonably be expected to have a F Co Material Adverse Effect: (i) none of F Co or any of F Co Subsidiaries is in violation of any Environmental Law or, except for any violation that has been fully resolved, has violated in the past any Environmental Law; (ii) to the knowledge of F Co, there is and has been no release of Hazardous Substances that requires response action under applicable Environmental Law at, on or under any of the properties currently owned, leased or operated by F Co or any of F Co Subsidiaries or, during the period of F Co’s or F Co Subsidiaries’ ownership, lease or operation thereof, formerly owned, leased or operated by F Co or any of F Co Subsidiaries, that would reasonably be expected to result in a liability to F Co or any of F Co Subsidiaries; (iii) (A) F Co and F Co Subsidiaries have obtained and are in compliance with all required Environmental Permits, (B) F Co and F Co Subsidiaries, except for any noncompliance that has been fully resolved, have been in the past in compliance with such Environmental Permits, and (C) no Action is pending, or to F Co’s knowledge, threatened, to revoke, modify or terminate any such Environmental Permit; (iv) there are no Actions pending or, to the knowledge of F Co, threatened against F Co or any of F Co Subsidiaries alleging violations of or liability under any Environmental Law or otherwise concerning the release or management of Hazardous Substances; (v) to F Co’s knowledge, no facts, circumstances, or conditions currently exist that could adversely affect the continued compliance by F Co and F Co Subsidiaries with Environmental Laws and Environmental Permits or require currently unbudgeted capital expenditures to achieve or maintain such continued compliance with Environmental Laws and Environmental Permits; (vi) neither F Co nor any of F Co Subsidiaries is the subject of any outstanding written order or Contract with any Governmental Authority or other person in respect of any (A) Environmental Laws, (B) remedial action relating to Environmental Laws, or (C) the release or threatened release of a Hazardous Material; (vii) there is no investigation of the business, operations, F Co Owned Real Property or F Co Leased Properties of F Co or any of F Co Subsidiaries or, to F Co’s knowledge, previously owned, operated, or leased property of F Co or F Co Subsidiaries pending or, to F Co’s knowledge, threatened that could lead to the imposition of any costs, liabilities or Liens under any Environmental Law; or (viii) to F Co’s knowledge, there is not located at any of F Co Owned Real Property or F Co Leased Properties any (A) underground storage tanks, (B) asbestos-containing material, or (C) equipment containing polychlorinated biphenyls.

(b) *No Environmental Requirements.* The Merger, Share Issuance and other transactions contemplated by this Agreement do not trigger any requirements under any federal, state, local or foreign laws relating to the environment or natural resources which condition the transfer of assets, real estate or stock on the approval of or the need to notify a Governmental Authority having jurisdiction over the environment or natural resources.

SECTION 4.17 Specified F Co Contracts.

(a) *Status of Specified F Co Contracts.* Each Specified F Co Contract is a legal, valid and binding obligation of F Co or a F Co Subsidiary, as applicable, in full force and effect and enforceable against F Co or a F Co Subsidiary in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors’ rights generally and subject to the effect of general principles of equity. To the knowledge of F Co, F Co has not received written notice, and has no reason to believe, that any Specified F Co Contract is not a legal, valid and binding obligation of the counterparty thereto, in full force and effect and enforceable against such counterparty in accordance with its terms. Except as would not reasonably be expected to have a F Co Material Adverse Effect, neither F Co nor any of F Co Subsidiaries is and, to F Co’s knowledge, no counterparty is, in breach or violation of, or default under, any Specified F Co Contract. None of F Co or any of F Co Subsidiaries have received any written claim of default under any Specified F Co Contract. To F Co’s knowledge, no event has occurred which would result in a breach

(b) For purposes of this Agreement, the term “*Specified F Co Contract*” means each of the Intercompany Agreements and any of the following Contracts (together with all exhibits and schedules thereto) to which F Co or any F Co Subsidiary is a party or by which F Co or any F Co Subsidiary or any of their respective properties or assets are bound or affected as of the date hereof:

(i) any limited liability company agreement, joint venture or other similar agreement or arrangement relating to the formation, creation, operation, management or control of any partnership or joint venture that is material to the business of F Co and F Co Subsidiaries, taken as a whole, other than any such limited liability company, partnership or joint venture that is a F Co Subsidiary;

(ii) any Contract (other than among consolidated F Co Subsidiaries) relating to (A) indebtedness for borrowed money and having an outstanding principal amount in excess of \$15,000,000 or (B) conditional sale arrangements, obligations secured by a Lien, or interest rate or currency hedging activities, in each case in connection with which the aggregate actual or contingent obligations of F Co and F Co Subsidiaries under such Contract are greater than \$15,000,000;

(iii) any Contract that purports to limit the right of F Co or F Co Subsidiaries (A) to engage or compete in any line of business or (B) to compete with any person or operate in any location, in the case of each of (A) and (B), in any respect material to the business of F Co and F Co Subsidiaries, taken as a whole;

(iv) any Contract that (A) contains most favored customer pricing provisions (other than Contracts entered into in the ordinary course of business consistent with past practice) or (B) grants any exclusive rights, rights of first refusal, rights of first negotiation or similar rights to any person, in each case under this clause (B) in a manner which is material to the business of F Co and F Co Subsidiaries, taken as a whole;

(v) any Contract entered into after January 1, 2005 or not yet consummated for the acquisition or disposition, directly or indirectly (by merger or otherwise), of assets or capital stock or other equity interests of another person for aggregate consideration under such Contract in excess of \$50,000,000;

(vi) any Contract which by its terms calls for aggregate payments by F Co and F Co Subsidiaries under such Contract of more than \$15,000,000 over the remaining term of such Contract;

(vii) any Contract of the type specified in *Section 5.02(n)* or between or among F Co or a F Co Subsidiary, on the one hand, and any of their respective affiliates (other than F Co or any F Co Subsidiary), on the other hand, that involves amounts of more than \$60,000;

(viii) any acquisition, disposition or similar Contract pursuant to which F Co or any of F Co Subsidiaries has continuing indemnification, “earn-out” or other contingent payment obligations, in each case, that would reasonably be expected to result in payments in excess of \$15,000,000;

(ix) any Contract with any labor union or association representing any employee of F Co or any of F Co Subsidiaries;

(x) any Contract granting any registration or similar right in respect of securities of F Co or any of F Co Subsidiaries; and

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(xi) any Contract required to be identified in *Section 4.11(a) or 4.13(b) of F Co Disclosure Schedule*.

A true and complete list of the Specified F Co Contracts as of the date hereof is set forth in *Section 4.17(b) of the F Co Disclosure Schedule*, except for Specified F Co Contracts filed prior to the date hereof as exhibits to the Registration Statement on Form S-1 dated May 26, 2004, as amended through the date hereof, as filed by F Co with the SEC.

SECTION 4.18 Insurance. *Section 4.18 of the F Co Disclosure Schedule* sets forth a complete and correct list of all material insurance policies owned or held by F Co and each F Co Subsidiary. With respect to each such insurance policy: (i) the policy is legal, valid, binding and enforceable in accordance with its terms and, except for policies that have expired under their terms in the ordinary course, is in full force and effect; (ii) neither F Co nor any F Co Subsidiary is in material breach or default (including any such breach or default with respect to the payment of premiums or the giving of notice), and, to F Co’s knowledge, no event has occurred which, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification, under the policy; (iii) to the knowledge of F Co, no insurer on the policy has been declared insolvent or placed in receivership, conservatorship or liquidation; and (iv) to the knowledge of F Co, no notice of cancellation or termination has been received other than in connection with ordinary renewals. The coverage under the insurance policies set forth on *Section 4.18 of the F Co Disclosure Schedule* is (subject to reasonable deductibles) sufficient to provide adequate insurance coverage for all of the assets and properties of F Co and F Co Subsidiaries for all material risks in compliance with all applicable law and F Co Permits. There are no pending claims against any such insurance policy as to which the insurers have denied liability.

SECTION 4.19 Material Customers.

(a) *Relations with Material Customers.* The top ten (10) customers of F Co and F Co Subsidiaries, and annual revenues related to such customers for each of: (i) the fiscal year ended December 31, 2004 and (ii) the period from January 1, 2005 through the date hereof, are listed on *Section 4.19(a) of the F Co Disclosure Schedule* (the “*F Co Material Customers*”). No F Co Material Customer has given F Co or any of F Co Subsidiaries any written notice terminating, suspending, or reducing in any material respect, or specifying an intention to terminate, suspend, or reduce in any material respect in the future, or otherwise reflecting an adverse charge in, the business relationship between such customer and F Co or F Co Subsidiaries, and, to F Co’s knowledge, there has not been any materially adverse change in the business relationship of F Co or F Co Subsidiaries with any such customer.

(b) *Former Customers.* *Section 4.19(b) of the F Co Disclosure Schedule* sets forth the names and annual revenues for each of (i) the fiscal year ended December 31, 2004 and (ii) the period from January 1, 2005 through the date hereof, of F Co Material Customers which have cancelled or terminated their relationships with F Co during the twelve months prior to the date of this Agreement.

SECTION 4.20 Affiliate Transactions. Except as contemplated by those Contracts listed on *Schedule 4.20* (the “*Intercompany Agreements*”), and except for arrangements between F Co and F Co Subsidiaries which do not involve payments by any party of more than \$150,000 annually in the aggregate and which do not restrict the ability of F Co and F Co Subsidiaries to engage in any line of business in any geographic area, no stockholder, officer, or director of F Co or any of F Co Subsidiaries, or to F Co’s knowledge, any member of his or her immediate family, or any person controlled by any of the foregoing persons (collectively, “*F Co Related Persons*”) (i) owes any amount to F Co or any of F Co Subsidiaries nor do F Co or any of F Co Subsidiaries owe any amount (other than employment compensation or benefits), or has it committed to make any loan or extend or guarantee credit to or for the benefit of, any F Co Related Person, (ii) has made any claim or cause of action or any action, suit, or proceeding whatsoever against F Co or any of F Co Subsidiaries, (iii) to F Co’s knowledge, (other than through stock ownership in

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a public company) has any direct or indirect ownership interest in, or is an officer, director, employee, consultant, or agent of, any person that has a business relationship with F Co (or any of F Co Subsidiaries) or that competes with F Co or any of F Co Subsidiaries, or (iv) owns, directly or indirectly, in whole or in part, any real property, leasehold interests, or other property or any F Co Permits, the use of which is necessary for the conduct of the business of F Co or F Co Subsidiaries as currently conducted and as proposed to be conducted. To F Co's knowledge, no F Co Related Person has any direct or indirect (other than through stock ownership in a public company) interest in any Contract to which F Co or F Co Subsidiaries is a party or by which it is bound. Those Intercompany Agreements identified as items 5-22 on *Schedule 4.20* contain terms and conditions under which the material costs and fees to or from F Co and the F Co Subsidiaries for the services and rights thereunder are at the fair market value thereof that would be obtainable from an unaffiliated third party.

SECTION 4.21 Adoption by Board. F Co Board, by resolutions duly adopted at a meeting duly called and held, has duly and unanimously (i) determined that this Agreement and the Merger are fair to and in the best interests of F Co and its stockholders, (ii) approved and declared the advisability of this Agreement, and (iii) recommended that the stockholders of F Co adopt the Merger and directed that the Merger be submitted for adoption by the stockholders of F Co, which resolutions have not been subsequently rescinded, modified or withdrawn in any way.

SECTION 4.22 Opinions of Financial Advisors. F Co has received the opinions of Bear, Stearns & Co, Inc. and Stephens Inc. to the effect that, as of the date of such opinions and subject to the matters referred to therein, the Exchange Ratio under this Agreement is fair to the stockholders of F Co from a financial point of view.

SECTION 4.23 Brokers. No broker, finder or investment banker other than Bear, Stearns & Co, Inc. and Stephens Inc. is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of F Co or any of stockholder of F Co.

ARTICLE V CONDUCT OF BUSINESS PENDING THE MERGER

SECTION 5.01 Conduct of Business by C Co Pending the Merger. C Co agrees that, between the date of this Agreement and the Effective Time, except as expressly contemplated by this Agreement, as required by law, as set forth in *Section 5.01 of the C Co Disclosure Schedule* or as approved by F Co in writing (which approval shall not be unreasonably withheld or delayed), Merger Co shall conduct no business, and the business of C Co and the C Co Subsidiaries (other than Merger Co) shall be conducted in the ordinary course of business and C Co and such C Co Subsidiaries shall use their reasonable best efforts to preserve substantially intact their respective business organizations, and to preserve their present relationships with customers, suppliers and other persons with which they have significant business relations. Without limiting the generality of the foregoing, except as contemplated by any other provision of this Agreement, as required by law, or as set forth in *Section 5.01 of the C Co Disclosure Schedule*, neither C Co nor any C Co Subsidiary (other than Merger Co, which shall conduct no business between the date hereof and the Effective Time) shall, between the date of this Agreement and the Effective Time, without the prior written consent of F Co (which consent shall not be unreasonably withheld or delayed):

- (a) amend or otherwise change its Articles of Incorporation or Bylaws (or comparable organizational documents);
- (b) issue, sell, pledge, dispose of, grant, or encumber: (i) any shares of any class of capital stock of C Co or any such C Co Subsidiary, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock, C Co Rights, or any other ownership interest (including any phantom interest), of C Co or any such C Co Subsidiary, except for the issuance of shares of

C Co Common Stock and associated C Co Rights issuable pursuant to C Co Stock Options or C Co Restricted Stock Units outstanding on the date hereof under C Co Stock Option Plans; or (ii) any assets of C Co or any such C Co Subsidiary worth \$2,500,000 in any individual transaction or \$10,000,000 in the aggregate, except in the ordinary course of business and in a manner consistent with past practice;

(c) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock, except for (i) regular cash dividends on C Co Common Stock or dividends by any direct or indirect wholly-owned C Co Subsidiary to C Co or any other C Co Subsidiary, each in a manner consistent with past practice as described in *Section 3.03(c)* hereof, and (ii) declaration and payment of the Special Dividend or provisions made at Closing for the payment thereof;

(d) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any capital stock of C Co or any C Co Subsidiary, other than in connection with the exercise of C Co Stock Options or the forfeiture of restricted stock awards, or pursuant to other contractual rights existing on the date hereof;

(e) (i) acquire (including by merger, consolidation, or acquisition of stock or assets or any other business combination) any corporation, partnership, other business organization or any division thereof having a value (including the amount of any assumed indebtedness) in excess of \$15,000,000, individually, or \$50,000,000, in the aggregate; (ii) repurchase, repay, cancel or incur any indebtedness for borrowed money, other than (A) capital leases in the ordinary course of business consistent with past practice, (B) under the existing credit facilities of C Co and such C Co Subsidiaries in the ordinary course of business or (C) scheduled payments in connection with currently outstanding indebtedness for borrowed money; (iii) grant any Lien in any of its material assets to secure any indebtedness for borrowed money; (iv) issue any debt securities or assume, endorse, or otherwise become responsible for, the obligations of any person, or make any loans or advances, except in the ordinary course of business and consistent with past practice; (v) except to the extent the amount is reflected in the 2005 capital expenditure budget, authorize, or make any commitment with respect to, any single capital expenditure which is in excess of \$2,500,000 or capital expenditures which are, in the aggregate, in excess of \$10,000,000 for C Co and the C Co Subsidiaries taken as a whole; (vi) enter into any new line of business outside of its existing business segments; or (vii) make investments in persons other than wholly-owned C Co Subsidiaries, other than ordinary course investments in accordance with C Co's existing investment policy;

(f) adopt or enter into a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization of C Co or, except in the ordinary course of business, any such C Co Subsidiary;

(g) except in the ordinary course of business and in a manner consistent with past practice: (i) increase the compensation payable or to become payable or the benefits provided to any current or former director or executive officer or, any other current or former employee; (ii) grant any retention, severance or termination pay to, or enter into any employment, bonus, change of control or severance agreement with, any current or former director or executive officer or any other current or former employee; or (iii) establish, adopt, enter into, terminate or materially amend any collective bargaining agreement or C Co Plan (other than individual contracts, agreements or commitments with employees who are not directors or executive officers) or establish,

adopt or enter into any plan, agreement, program, policy, trust, fund or other arrangement that would be such a C Co Plan if it were in existence as of the date of this Agreement, except as required by law or under any existing C Co Plan or Contract;

(h) (i) except as required by law or the Treasury Regulations promulgated under the Code, make any change in any method of Tax accounting for a material amount of Taxes or (ii) make, change or rescind any material Tax election, settle or compromise any material Tax liability, file any amended Tax Return involving a material amount of additional Taxes (except as required by law), enter into any closing

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agreement relating to a material amount of Taxes, or waive or extend the statute of limitations in respect of Taxes (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course of business);

(i) make any material change to its methods of accounting in effect at December 31, 2004, except (i) as required by changes in GAAP (or any interpretation thereof) or Regulation S-X under the Exchange Act ("*Regulation S-X*"), (ii) as may be required by a change in applicable law or (iii) as disclosed in the C Co SEC Reports filed prior to the date hereof or as required by a Governmental Authority or quasi-Governmental Authority (including the Financial Accounting Standards Board ("*FASB*") or any similar organization);

(j) write up, write down or write off the book value of any assets of C Co and such C Co Subsidiaries, other than (i) in the ordinary course of business and consistent with past practice or (ii) as may be required by GAAP, FASB or Regulation S-X;

(k) pay, discharge, waive, settle or satisfy any claim (which shall include, but not be limited to, any pending or threatened material Action in excess of \$2,500,000, other than in the ordinary course of business and consistent with past practice;

(l) enter into any agreement that restricts the ability of C Co or any of the C Co Subsidiaries to engage or compete in any line of business in any respect material to the business of C Co and the C Co Subsidiaries, taken as a whole, other than in the ordinary course of business;

(m) other than in the ordinary course of business, in a manner consistent with past practice and on terms not materially adverse to C Co and the C Co Subsidiaries taken as a whole, (i) enter into, amend, modify, cancel or consent to the termination of any Specified C Co Contract (other than any Specified C Co Contract described in *Section 3.17(b)(viii)*) or any Contract that would be a Specified C Co Contract (other than any Specified C Co Contract described in *Section 3.17(b)(viii)*) if in effect on the date of this Agreement; or (ii) amend, waive, modify, cancel or consent to the termination of C Co's or any C Co Subsidiary's rights thereunder;

(n) enter into, amend, modify or waive any rights under any Contract or transaction (or series of related Contracts or transactions) with an executive officer or director (or, other than on arm's-length terms in the ordinary course of business, any person in which such executive officer or director, or, to the knowledge of C Co, any immediate family member of such executive officer or director, has over a 10% interest) involving amounts in excess of \$60,000;

(o) fail to maintain in full force and effect or fail to use commercially reasonable efforts to replace or renew material insurance policies existing as of the date hereof and covering C Co and the C Co Subsidiaries and their respective properties, assets and businesses, taken as a whole;

(p) take any action that, to the knowledge of C Co, would reasonably be likely to prevent or materially delay satisfaction of the conditions contained in *Section 7.01* or *7.03* or the consummation of the Merger; or

(q) agree to take any of the actions described in *Sections 5.01(a)* through *5.01(p)* above.

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SECTION 5.02 Conduct of Business by F Co Pending the Merger. Between the date of this Agreement and the Effective Time, except as expressly contemplated by this Agreement, as required by law, as set forth in *Section 5.02 of the F Co Disclosure Schedule* or as approved by C Co in writing (which approval shall not be unreasonably withheld or delayed), F Co and the F Co Subsidiaries shall conduct the business of F Co and the F Co Subsidiaries in the ordinary course of business, use their reasonable best efforts to preserve substantially intact their respective business organizations, and preserve their present relationships with customers, suppliers and other persons with which they have significant business relations. Without limiting the generality of the foregoing, except as contemplated by any other provision of this Agreement, as required by law, or as set forth in *Section 5.02 of the F Co Disclosure Schedule*, F Co and the F Co Subsidiaries shall not, between the date of this Agreement and the Effective Time, without the prior written consent of C Co (which consent shall not be unreasonably withheld or delayed):

(a) amend or otherwise change its Certificate of Incorporation or Bylaws (or comparable organizational documents) in a manner adverse to C Co;

(b) issue, sell, pledge, dispose of, grant, or encumber: (i) any shares of any class of capital stock of F Co or any F Co Subsidiary, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock or any other ownership interest (including any phantom interest), of F Co or any F Co Subsidiary, except for the issuance of shares of F Co Common Stock issuable pursuant to F Co Stock Options outstanding on the date hereof under the F Co Stock Option Plan; or (ii) any assets of F Co or any F Co Subsidiary worth \$7,500,000 in any individual transaction or \$25,000,000 in the aggregate, except in the ordinary course of business and in a manner consistent with past practice;

(c) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock, except for dividends by any direct or indirect wholly-owned F Co Subsidiary to F Co or any other F Co Subsidiary;

(d) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any capital stock of F Co or any F Co Subsidiary other than in connection with the exercise of F Co Stock Options or the forfeiture of restricted stock or other equity awards to employees, or pursuant to other contractual rights existing on the date hereof;

(e) (i) acquire (including by merger, consolidation, or acquisition of stock or assets or any other business combination) any corporation, partnership, other business organization or any division thereof having a value (including the amount of any assumed indebtedness) in excess of \$50,000,000, individually, (ii) repurchase, repay, cancel or incur any indebtedness for borrowed money, other than (A) capital leases in the ordinary course of business consistent with past practice, (B) in connection with permitted acquisitions, (C) under the existing credit facilities of F Co and F Co Subsidiaries in the ordinary course of business, (D) scheduled payments in connection with currently outstanding indebtedness for borrowed money; or (E) increases necessary

to fund the Special Dividend as contemplated by *Section 6.06* or to fund the working capital or corporate needs of the C Co and its subsidiaries following Closing, on terms reasonably satisfactory to C Co, (iii) grant any Lien in any of its material assets to secure any indebtedness for borrowed money, except in connection with such indebtedness permitted under the preceding clause (ii); (iv) issue any debt securities or assume, endorse, or otherwise become responsible for, the obligations of any person, or make any loans or advances, except in the ordinary course of business and consistent with past practice; (v) except to the extent the amount is reflected in F Co's 2005 capital expenditure budget, authorize, or make any commitment with respect to, any single capital expenditure which is in excess of \$7,500,000 or capital expenditures which are, in the aggregate, in excess of \$25,000,000 for F Co and F Co Subsidiaries taken as a whole; (vi) enter into any new line of business outside of its existing business segments; or (vii) make investments in persons other than wholly-owned F Co Subsidiaries, other than ordinary course investments in accordance with F Co's existing investment policy;

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(f) adopt or enter into a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization of F Co (other than the Merger) or, except in the ordinary course of business, any F Co Subsidiary;

(g) except in the ordinary course of business and in a manner consistent with past practice: (i) increase the compensation payable or to become payable or the benefits provided to any current or former director or executive officer; (ii) grant any retention, severance or termination pay to, or enter into any employment, bonus, change of control or severance agreement with, any current or former director or executive officer or any other current or former employee or any other current or former employee; or (iii) establish, adopt, enter into, terminate or materially amend any collective bargaining agreement or F Co Plan (other than individual contracts, agreements or commitments with employees who are not directors or executive officers) or establish, adopt or enter into any plan, agreement, program, policy, trust, fund or other arrangement that would be such a F Co Plan if it were in existence as of the date of this Agreement, except as required by law or under any existing F Co Plan or Contract;

(h) (i) except as required by law or the Treasury Regulations promulgated under the Code, make any change in any method of Tax accounting for a material amount of Taxes or (ii) make, change or rescind any material Tax election, settle or compromise any material Tax liability, file any amended Tax Return involving a material amount of additional Taxes (except as required by law), enter into any closing agreement relating to a material amount of Taxes, or waive or extend the statute of limitations in respect of Taxes (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course of business);

(i) make any material change to its methods of accounting in effect at December 31, 2004, except as required by changes in GAAP (or any interpretation thereof) or a change in applicable law or as required by a Governmental Authority or quasi-Governmental Authority (including FASB or any similar organization);

(j) write up, write down or write off the book value of any assets of F Co and F Co Subsidiaries, other than (i) in the ordinary course of business and consistent with past practice or (ii) as may be required by GAAP or FASB;

(k) pay, discharge, waive, settle or satisfy any material claim (which shall include, but not be limited to, any pending or threatened material Action) in excess of \$10,000,000, other than in the ordinary course of business and consistent with past practice;

(l) enter into any agreement that restricts the ability of F Co or any of F Co Subsidiaries to engage or compete in any line of business in any respect material to the business of F Co and F Co Subsidiaries, taken as a whole, other than in the ordinary course of business;

(m) other than in the ordinary course of business, in a manner consistent with past practice and on terms not materially adverse to F Co and F Co Subsidiaries taken as a whole, (i) enter into, amend, modify, cancel or consent to the termination of any Specified F Co Contract (other than as contemplated by the Consent Commitments or with respect to any Specified F Co Contract described in *Section 4.17(b)(vii)*) or any Contract that would be a Specified F Co Contract (other than any Specified F Co Contract described in *Section 4.17(b)(vii)*) if in effect on the date of this Agreement; or (ii) amend, waive, modify, cancel or consent to the termination of F Co's or any F Co Subsidiary's rights thereunder;

(n) enter into, amend, modify or waive any rights under any Contract or transaction (or series of related Contracts or transactions) with an executive officer or director (or, other than on arm's-length terms in the ordinary course of business, any person in which such executive officer or director, or, to the knowledge of F Co, any immediate family member of such executive officer or director, has over a 10% interest) involving amounts in excess of \$60,000;

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(o) amend or modify, or waive, or fail in any material respect to enforce, any rights under any of the Intercompany Agreements;

(p) fail to maintain in full force and effect or fail to use commercially reasonable efforts to replace or renew material insurance policies existing as of the date hereof and covering F Co and F Co Subsidiaries and their respective properties, assets and businesses, taken as a whole;

(q) take any action that, to the knowledge of F Co, would reasonably be likely to prevent or materially delay satisfaction of the conditions contained in *Section 7.01* or *7.02* or the consummation of the Merger; or

(r) agree to take any of the actions described in *Sections 5.02(a)* through *5.02(q)* above.

SECTION 5.03 No Control of Other Party's Business. Nothing contained in this Agreement shall give C Co, directly or indirectly, the right to control or direct F Co's or F Co Subsidiaries' operations prior to the Effective Time, and nothing contained in this Agreement shall give F Co, directly or indirectly, the right to control or direct C Co's or the C Co Subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, each of F Co and C Co shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its subsidiaries' respective operations.

ARTICLE VI ADDITIONAL AGREEMENTS

SECTION 6.01 Proxy Statement; Other Filings. As promptly as practicable following the date of this Agreement (it being acknowledged that each of C Co and F Co will use their reasonable best efforts to accomplish within 20 business days thereafter, unless the parties otherwise mutually agree): (a) C Co shall prepare and file with the SEC the preliminary Proxy Statement, and (b) each of C Co, Merger Co and F Co shall, or shall cause their respective

affiliates to, prepare and file with the SEC all Other Filings that are required to be filed by such party in connection with the transactions contemplated hereby. C Co, Merger Co and F Co shall furnish all information concerning itself and its affiliates that is required to be included in the Proxy Statement or, to the extent applicable, the Other Filings, or that is customarily included in proxy statements or other filings prepared in connection with transactions of the type contemplated by this Agreement. Each of C Co, Merger Co and F Co shall use their respective reasonable best efforts to respond as promptly as practicable to any comments of the SEC with respect to the Proxy Statement or the Other Filings, and C Co shall use its reasonable best efforts to cause the definitive Proxy Statement to be mailed to C Co's shareholders as promptly as reasonably practicable after the date of this Agreement. Each party shall promptly notify the other party upon the receipt of any comments from the SEC or its staff or any request from the SEC or its staff for amendments or supplements to the Proxy Statement or the Other Filings and shall provide the other party with copies of all correspondence between it and its Representatives, on the one hand, and the SEC and its staff, on the other hand relating to the Proxy Statement or the Other Filings. If at any time prior to the C Co Shareholders' Meeting, any information relating to C Co, Merger Co and F Co or any of their respective affiliates, officers or directors, should be discovered by C Co, Merger Co or F Co which should be set forth in an amendment or supplement to the Proxy Statement or the Other Filings, so that the Proxy Statement or the Other Filings shall not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading, the party which discovers such information shall promptly notify the other parties, and an appropriate amendment or supplement describing such information shall be filed with the SEC and, to the extent required by applicable law, disseminated to the shareholders of C Co. Notwithstanding anything to the contrary stated above, prior to filing or mailing the Proxy Statement or filing the Other Filings (or, in each case, any amendment or supplement thereto) or responding to any

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comments of the SEC with respect thereto, the party responsible for filing or mailing such document shall provide the other party an opportunity to review and comment on such document or response.

SECTION 6.02 C Co Shareholders' Meeting. C Co shall duly call, give notice of, convene and hold a meeting of its shareholders (the "C Co Shareholders' Meeting"), as promptly as practicable after the date of this Agreement, for the purpose of voting upon the C Co Proposal. Unless this Agreement shall have been terminated in accordance with *Section 8.01*, C Co shall hold the C Co Shareholders' Meeting regardless of whether the C Co Board has effected a Change in Board Recommendation. Subject to *Section 6.05(c)*, the C Co Board shall recommend to the shareholders of C Co that they approve the Share Issuance and the Articles Amendment, and shall include such recommendation in the Proxy Statement. In connection with the votes taken at the C Co Shareholders' Meeting on the C Co Proposal, C Co shall provide, pursuant to Section 14-2-1302(a)(5) of the GBCC, that shareholders of C Co shall be entitled to dissent from each such action and obtain payment for their shares in accordance with Sections 14-2-1321 and 14-2-1323 of the GBCC. Nothing contained in this *Section 6.02* shall be deemed to prevent C Co or the C Co Board from taking any action it is permitted to take under, and in compliance with, *Section 6.05*.

SECTION 6.03 Access to Information; Confidentiality.

(a) *Access to Information.* Except as otherwise prohibited by applicable law, the terms of any Contract entered into prior to the date hereof, or any other duty of confidentiality owed to another person, or would be reasonably expected to violate any attorney-client privilege (it being understood that the parties shall each use reasonable best efforts to cause such information to be provided in a manner that does not result in such violation), from the date of this Agreement until the Effective Time, F Co, on the one hand, and C Co on the other hand, shall (and shall cause their respective subsidiaries to): (i) provide to each other and to their respective officers, directors, employees, accountants, consultants, legal counsel, financing sources, agents and other representatives (collectively, "Representatives") reasonable access, during normal business hours and upon reasonable prior notice, to their respective officers, employees, agents, properties, offices and other facilities, and those of their respective subsidiaries, and to the books and records thereof; and (ii) furnish promptly to each other such information concerning the business, properties, contracts, assets, liabilities, personnel and other aspects of themselves as they or their respective Representatives may reasonably request. Notwithstanding the foregoing, C Co and F Co each may impose reasonable restrictions and limitations on access to such officers, employees, agents, properties, offices, facilities, books and records and information, and each shall, and shall cause their respective Representatives to, use their best reasonable efforts to conduct any such investigation or consultation in such a manner as not to interfere unreasonably with their respective business or operations (or those of their subsidiaries) or otherwise result in any unreasonable interference with the prompt and timely discharge by their respective employees of their normal duties. No party hereto shall be required to provide access to or to disclose information where such access or disclosure would jeopardize that party's attorney-client privilege, or could reasonably be deemed to contravene any law, any Contract entered into prior to the date of this Agreement, or any other duty of confidentiality owed to another person (it being agreed that the parties shall use their reasonable best efforts to cause such information to be provided in a manner that does not cause such violation or jeopardization).

(b) *Confidentiality.* All materials, documents and information obtained by C Co or its Representatives, on the one hand, or F Co and its Representatives, on the other hand, pursuant to this *Section 6.03* shall be kept confidential and otherwise dealt with in accordance with the confidentiality agreement, dated March 28, 2005 (the "Company Confidentiality Agreement"), between C Co and F Co, and, to the extent applicable, the confidentiality agreements between C Co and TPG Partners IV, L.P. dated March 31, 2005, and between C Co and Thomas H. Lee Partners, L.P. dated April 4, 2005 (such confidentiality agreements, together with the Company Confidentiality Agreement, the "Confidentiality Agreements"). The Confidentiality Agreements shall remain in full force and effect, notwithstanding the execution and delivery or termination of this Agreement.

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(c) *No Limitation.* No investigation pursuant to this *Section 6.03* or otherwise shall affect any representation or warranty in this Agreement of any party hereto or any condition to the obligations of the parties.

SECTION 6.04 F Co Financial Statements. Between the date of this Agreement and the Closing Date, F Co shall deliver to C Co, as soon as reasonably practicable in accordance with normal practice after the end of each fiscal quarter, unaudited combined balance sheets of F Co and the F Co Subsidiaries as of the end of such quarter (commencing with the delivery of such statements for the fiscal quarter ended September 30, 2005) and combined statements of income for such quarter (the "Quarterly Financials"). The Quarterly Financials shall be prepared in accordance with GAAP, consistent with past practices.

SECTION 6.05 No Solicitation of Transactions by C Co.

(a) *Non-Solicitation by C Co.* C Co agrees that neither it nor any C Co Subsidiary shall, nor shall it authorize or permit the Representatives of C Co or the C Co Subsidiaries to, (i) solicit, initiate, propose or knowingly encourage the submission of any C Co Acquisition Proposal, (ii) participate in any

discussions or negotiations regarding, or furnish to any person (other than C Co or its Representatives) any non-public information in connection with, any C Co Acquisition Proposal, or (iii) take any action to render the C Co Rights Agreement inapplicable to an Acquisition Proposal or the transactions contemplated thereby or exempt or exclude any person from the applicability of the C Co Rights Agreement in connection with an Acquisition Proposal; *provided, however*, that nothing contained in this Agreement shall prevent C Co or the C Co Board from, prior to the adoption of this Agreement by C Co's stockholders in accordance with this Agreement, furnishing information to, or engaging in negotiations or discussions with, any person (and such person's Representatives) in connection with an unsolicited bona fide written C Co Acquisition Proposal by such person received after the date hereof, if and only to the extent that prior to taking such action the C Co Board (or any committee thereof) (A) determines in good faith (after consultation with its financial advisors) that such C Co Acquisition Proposal may constitute, or could reasonably be expected to lead to, a Superior Proposal, (B) (1) has received prior to the date hereof an executed confidentiality agreement from such person in connection with such person's consideration of making a C Co Acquisition Proposal, or (2) receives from such person an executed confidentiality agreement, the confidentiality terms of which are no less favorable in the aggregate to C Co than those contained in the Confidentiality Agreements, and (C) the C Co Board shall have determined in good faith (after consultation with its outside legal counsel) that such action is necessary in order for the C Co Board to comply with its fiduciary duties under applicable law.

(b) *Notification and Related Matters.* C Co shall notify F Co as promptly as practicable of the receipt by C Co or any of the C Co Subsidiaries, or any of its or their respective Representatives, of any bona fide inquiries, proposals or offers, requests for information or requests for discussions or negotiations regarding any C Co Acquisition Proposal, specifying the material terms and conditions thereof. Promptly upon determination by the C Co Board that an Acquisition Proposal constitutes a Superior Proposal, C Co shall deliver to F Co a written notice advising it that the C Co Board has made such determination, specifying the material terms and conditions of such Superior Proposal and the identity of the person making such Superior Proposal (such notice, a "Superior Proposal Notice"). C Co agrees that neither it nor any of the C Co Subsidiaries shall modify, amend, terminate, waive or release any confidentiality or standstill agreement to which C Co or any C Co Subsidiary is a party and which relates to a business combination involving C Co or any C Co Subsidiary or the assets of C Co or any C Co Subsidiary, except where the C Co Board (or any committee thereof) determines in good faith (after consultation with its outside legal counsel) that it is required to do so in order to comply with its fiduciary duties under applicable law.

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(c) *Change in Recommendation.* Except as set forth in this Section 6.05(c), the C Co Board (or any committee thereof) shall not: (i) withdraw, or modify or change in a manner adverse to F Co, the C Co Board Recommendation; (ii) approve or recommend any C Co Acquisition Proposal; or (iii) approve or recommend, or allow C Co or any C Co Subsidiary to enter into, any letter of intent, acquisition agreement or other similar agreement with respect to, or that is reasonably expected to result in, any C Co Acquisition Proposal (other than a confidentiality agreement referred to in this Section 6.05). Notwithstanding the foregoing, (x) in response to the receipt of an unsolicited bona fide written C Co Acquisition Proposal, if the C Co Board (or any committee thereof) (A) determines in good faith (after consultation with its financial advisors) that such C Co Acquisition Proposal is a Superior Proposal and (B) determines in good faith (after consultation with its outside legal counsel) that it is required to do so in order to comply with its fiduciary duties to the shareholders of C Co under applicable law, then the C Co Board may approve and recommend such Superior Proposal and, in connection with such Superior Proposal, withdraw, or modify or change in a manner adverse to F Co, the C Co Board Recommendation or (y) other than in connection with a C Co Acquisition Proposal, if the C Co Board determines in good faith (after consultation with its outside legal counsel) that it is required to do so in order to comply with its fiduciary duties to the shareholders of C Co under applicable law, then the C Co Board may withdraw, or modify or change in a manner adverse to F Co, the C Co Board Recommendation (either event described in the foregoing clauses (x) and (y), a "Change in Board Recommendation").

(d) *Certain Disclosures.* Nothing contained in this Agreement shall prohibit C Co from taking and disclosing to its shareholders a position contemplated by Rules 14d-9 and 14e-2(a) promulgated under the Exchange Act or from making any disclosure to C Co's shareholders if the C Co Board (or any committee thereof) determines in good faith (after consultation with its outside legal counsel) that it is required to do so under applicable law; *provided, however*, that in no event shall this Section 6.05(d) affect the obligations of C Co specified in Section 6.05(c).

(e) For purposes of this Agreement, "C Co Acquisition Proposal" means any proposal or offer (including any proposal from or to C Co's shareholders) from any person other than F Co or any of its stockholders or any group including any of the foregoing persons relating to: (i) any direct or indirect acquisition or purchase, in a single transaction or series of transactions by such person or group acting in concert, of (A) more than 25% of the fair market value (as determined in good faith by the C Co Board) of the assets (including capital stock of the C Co Subsidiaries) of C Co and its consolidated subsidiaries, taken as a whole, or (B) over 25% of any class of equity securities of C Co; or (ii) any merger, consolidation, business combination, recapitalization, liquidation, dissolution or other similar transaction involving C Co as a result of which any person or group acting in concert would acquire the assets, securities or businesses described in any of clauses (A) or (B) above; *provided, however*, that the foregoing shall not be deemed to include the disposition of any assets, securities or businesses of C Co that are listed on Section 5.01 of the C Co Disclosure Schedule.

SECTION 6.06 Financing and Other Actions for Special Dividend. Promptly following the date of this Agreement, C Co and F Co shall each use its commercially reasonable efforts to arrange for adequate and appropriate financing facilities (which may include existing facilities or the facility contemplated by the SunTrust Commitment) and other debt funding sources to provide the cash, when taken together with C Co's available excess cash, necessary to pay, as set forth below, the Special Dividend, such financing facilities to be on terms reasonably acceptable to F Co. Prior to the Closing Date and subject to satisfaction or waiver of the conditions to both parties' obligations to consummate the Merger in Article VII, the Board of Directors of C Co shall declare the Special Dividend payable to shareholders of C Co of record immediately prior to the Effective Time (the "Special Dividend Recipients") if sufficient funds are available therefor and to the extent such declaration and payment is permitted by applicable law. C Co shall take such actions as it deems necessary to adjust all outstanding C Co Options and C Co Restricted Stock Units as of the record date for the Special Dividend in order to ensure that all such options and units maintain

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their intrinsic value and provide the same economic benefit to the holders thereof, as determined prior to the payment of the Special Dividend, to account for the payment of the Special Dividend. C Co will use its commercially reasonable efforts to cause the closing price of the C Co Common Stock as reported by the NYSE as of the trading day close most recently occurring prior to the Effective Time is reported as ex-dividend with respect to the Special Dividend.

SECTION 6.07 Employee Benefits Matters.

(a) *Obligations with Respect to C Co Employees.* For a six (6) month period beginning immediately following the Effective Time (the "Continuation Period"), C Co shall, or shall cause its subsidiaries to, (i) provide each person who is employed by C Co or any C Co Subsidiary as of the

Effective Time (each, a “*Continuing Employee*”) with benefits under any “welfare employee benefit plans” as defined in Section 3(2) of ERISA and the C Co 401(k) plan (but excluding any compensation, incentive compensation opportunities, stock option, restricted stock and other equity incentives and any other employee benefit plan that is not a welfare plan) that are not materially less favorable in the aggregate than those provided to the Continuing Employees immediately prior to the Effective Time, and (ii) provide medical and life insurance benefits to retirees (including C Co Employees who become eligible for such retiree coverage during such period) that are substantially similar to the coverage maintained by C Co immediately prior to the Effective Time. Nothing herein shall be deemed to be a guarantee of employment for any C Co Employee, or to restrict the right of C Co or any of its subsidiaries to terminate any C Co Employee. Further, nothing herein shall restrict the right of C Co or any of its subsidiaries to amend any benefit plans in accordance with the terms and conditions of such benefit plans.

(b) *Eligibility.* With respect to any employee benefit plan, program or arrangement (other than with respect to eligibility to participate in or benefit accrual under any defined benefit pension plan) established or maintained by F Co Parent, C Co or any of their respective subsidiaries under which any Continuing Employees may be eligible to participate on or after the Effective Time, C Co shall, or shall cause its subsidiaries to, recognize service of the Continuing Employees with C Co or any of its subsidiaries (or their respective predecessors) or F Co or any of its subsidiaries (or their respective predecessors) to the same extent that the service of any such Continuing Employee was recognized by C Co or any of its subsidiaries (or their respective predecessors) under comparable C Co Plans immediately prior to the Effective Time; *provided, however*, that such crediting of service shall not operate to duplicate any benefit or the funding of any such benefit.

(c) *Welfare Plans.* With respect to the welfare benefit plans, programs and arrangements maintained or sponsored by, or contributed to by C Co or any of its subsidiaries (“*Surviving Welfare Benefit Plans*”) in which any Continuing Employees may be eligible to participate on or after the Effective Time, C Co shall, and shall cause its subsidiaries to, and F Co Parent shall be required to, and shall be required to cause its subsidiaries to (i) waive, or use commercially reasonable efforts to cause its insurance carrier to waive, all limitations as to preexisting and at-work conditions, if any, with respect to participation and coverage requirements applicable to each Continuing Employee under any Surviving Welfare Benefit Plan to the same extent waived under a comparable C Co Plan or F Co Plan, and (ii) provide credit to each Continuing Employee for any co-payments, deductibles and out-of-pocket expenses paid by such Continuing Employee under the C Co Plans or F Co Plans during the relevant plan year, up to and including the Effective Time.

(d) *C Co Change in Control Agreements.* From and after the Effective Time, C Co shall, and shall cause its subsidiaries to, honor or cause to be honored in accordance with their terms, each C Co Change in Control Agreement listed on *Schedule 3.11(c)* including, without limitation, each Change in Control letter agreement (subject to any termination provided below) and each trust or other funding requirements with respect to such C Co Change in Control Agreements. Simultaneously with the execution of this Agreement, each of the two (2) C Co Employees set forth on Annex A to **Exhibit F-1** attached

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hereto has executed an Employment Agreement with C Co, to be effective as of the Effective Time, in the form attached hereto as **Exhibit F-1**, which shall replace and supersede such C Co Employees’ Change in Control letter agreements. Following the execution of this Agreement, C Co shall use its commercially reasonable efforts to obtain the execution and delivery by each of the C Co Employees set forth on Annex A to **Exhibit F-2** attached hereto of a termination of such individual’s Change in Control letter agreement, to be effective as of the Effective Time, in substantially the form attached hereto as **Exhibit F-2**.

(e) *International Employees.* The provisions of this *Section 6.07* shall apply with respect to Foreign C Co Plans and Foreign F Co Plans and foreign Continuing Employees except to the extent not permissible or advisable under the terms of such plans or the applicable foreign laws.

(f) *C Co Stock Incentive Plan Amendment.* Prior to the Effective Time, C Co shall (i) amend and restate the C Co Stock Incentive Plan to increase the total number of shares available under such plan by an additional 6,000,000 shares, to increase the limits on the number of options, restricted shares and other awards that may be granted to any individual in any calendar year, and to make any other changes (which changes shall be subject to the consent of F Co, which consent shall not be reasonably withheld) necessary or advisable to reflect the Special Dividend, the Merger and the transactions contemplated by this Agreement, and (ii) submit such amended and restated plan to C Co’s shareholders for approval at the C Co Shareholders’ Meeting.

SECTION 6.08 Ancillary Agreements. At or prior to the Closing, each of C Co and F Co shall execute and deliver each Ancillary Agreement to which it has been designated to become a party thereto pursuant to this Agreement.

SECTION 6.09 Tax-Free Reorganization Treatment. C Co and F Co intend that the Merger will qualify as a reorganization within the meaning of Section 368(a) of the Code. Each of C Co and F Co shall, and shall cause its respective subsidiaries to, use its reasonable best efforts to cause the Merger so to qualify and to obtain the opinions of counsel referred to in *Section 7.02(d)* and *Section 7.03(d)*. Neither C Co nor F Co shall take any action, or fail to take any action, that could reasonably be expected to jeopardize the qualification of the Merger as a reorganization within the meaning of Section 368(a) of the Code or that could reasonably be expected to jeopardize the ability of C Co or F Co to deliver the representation certificates referred to in *Section 7.02(d)* and *Section 7.03(d)*.

SECTION 6.10 Intentionally Omitted.

SECTION 6.11 State Takeover Statutes. C Co and F Co and their respective Boards of Directors shall (i) take all reasonable action necessary to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to this Agreement or the transactions provided for in this Agreement and (ii) if any state takeover statute or similar statute becomes applicable to this Agreement or the transactions contemplated by this Agreement, take all reasonable action necessary to ensure that the transactions provided for in this Agreement may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on this Agreement or the transactions provided for in this Agreement.

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SECTION 6.12 Notification of Certain Matters. F Co shall give prompt notice to C Co, and C Co shall give prompt notice to F Co, of (a) the occurrence, or non-occurrence, of any event the occurrence, or non-occurrence, of which could reasonably be expected to cause any condition to the obligations of any party hereunder not to be satisfied, and (b) any failure of F Co or C Co to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder; *provided, however*, that the delivery or non-delivery of any notice pursuant to this *Section 6.12* shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice. In addition, F Co shall give prompt written notice to C Co, and C Co shall give

prompt written notice to F Co, of any notice or other communication (i) from any person and the response thereto of F Co or the Subsidiaries or C Co, as the case may be, or its or their Representatives alleging that the consent of such person is or may be required in connection with this Agreement or the Merger, and (ii) from any Governmental Authority and the response thereto of F Co, F Co Subsidiaries, C Co or the C Co Subsidiaries, as the case may be, or its or their Representatives in connection with this Agreement or the Merger.

SECTION 6.13 Further Action; Reasonable Best Efforts.

(a) *Further Action.* Upon the terms and subject to the conditions of this Agreement, each of the parties agrees to use its reasonable best efforts to (i) take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things necessary, proper or advisable under applicable law or otherwise to consummate the Merger and effect the Share Issuance and the Articles Amendment, (ii) obtain from Governmental Authorities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained by C Co or F Co or any of their respective subsidiaries in connection with the authorization, execution and delivery of this Agreement, and (iii) promptly make all necessary filings, and thereafter make any other required submission, with respect to this Agreement, the Merger, the Share Issuance and the Articles Amendment required under the HSR Act or any other applicable antitrust, competition or fair trade laws with respect to the Merger. Subject to appropriate confidentiality protections, the parties shall have an opportunity to review and comment on drafts of all applications, notices, petitions, filings and other documents made or prepared in connection with the items described in clauses (i) through (iii) above, which comments shall be considered by the other party in good faith, shall cooperate with each other in connection with the prompt making of all such filings, will furnish to the other party such necessary information and assistance as such other party may reasonably request with respect to the foregoing and will provide the other party with copies of all filings made by such party with any applicable Government Authority, and, upon request, any other information supplied by such party to a Governmental Authority in connection with this Agreement and the Merger.

(b) *HSR Act Compliance.* C Co, Merger Co and F Co shall file as soon as practicable after the date of this Agreement all required or advisable notifications under, or relating to, the HSR Act and any antitrust, competition or fair trade law of any applicable United States or non-United States governmental antitrust authority and shall respond as promptly as practicable to all inquiries or requests for additional information received from a Governmental Authority in relation to such filings or notices for additional information or documentation. C Co, Merger Co and F Co will cooperate fully (including, without limitation, by providing all information the other party reasonably requests) with the other parties in promptly seeking to obtain all such authorizations, consents, orders and approvals. Notwithstanding anything to the contrary in this *Section 6.13(b)*, (A) neither F Co nor C Co shall be required to agree to (i) the divestiture (including through a licensing arrangement) by it or its respective subsidiaries of any of their respective businesses, product lines or assets (other than an immaterial amount of assets), or (ii) the imposition of any limitation (other than an immaterial limitation) on the ability of any of them to conduct their business or to own or exercise control of such assets, properties and stock (other than an immaterial amount of such assets, properties or stock), and (B) no action taken by C Co or F Co pursuant to this *Section 6.13(b)* shall affect the Exchange Ratio.

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(c) *Consents.* C Co, Merger Co and F Co shall, and shall cause their respective subsidiaries to, use their respective reasonable best efforts to obtain any third party consents (i) necessary to consummate the Merger, Share Issuance and the Other Transactions or (ii) required to prevent a Material Adverse Effect from occurring prior to the Effective Time.

SECTION 6.14 Public Announcements. The parties agree to issue a press release relating to this Agreement which shall be a joint press release, the text of which has been agreed to by each of C Co and F Co. Thereafter, each of C Co and F Co shall agree upon, before issuing, the text of any press release or any other public statements with respect to this Agreement or the Merger, except to the extent public disclosure is required by applicable law or the requirements of the NYSE, in which case the issuing party shall use its reasonable best efforts to consult with the other party, and allow a reasonable time for such party to comment upon the press release, before issuing any such release or making any such public statement.

SECTION 6.15 Termination of Certain F Co Contracts. F Co shall cause those Contracts listed on *Schedule 6.15(a)* pursuant to which F Co has granted certain rights to its stockholders (including that certain Stockholders Agreement dated as of March 9, 2005, that certain Registration Rights Agreement dated as of March 9, 2004 and those certain Management Agreements dated as of March 9, 2004), and all intercompany Contracts between or among F Co and any of its stockholders (other than those Contracts set forth on *Schedule 6.15(b)*) or any of their respective affiliates that is not an Intercompany Agreement, to be terminated on or prior to the Effective Time.

SECTION 6.16 Amendment of F Co Intercompany Agreements. F Co shall, and C Co shall cooperate with F Co to, cause (a) all of the Intercompany Agreements to be amended as necessary to reflect the amendments specified in Section A of *Schedule 6.16*, and (b) each specific Intercompany Agreement identified in Section B of *Schedule 6.16* to be amended to reflect the specified changes set forth with respect to that Intercompany Agreement in such Section B. Each amendment pursuant to the preceding sentence (the "*Specified Amendments*") shall be in form reasonably satisfactory to each of F Co and C Co. F Co and C Co shall also cooperate in good faith with each other and with F Co Parent to identify, as promptly as practicable and prior to the Closing, relationships between F Co and F Co Parent currently governed by those Intercompany Agreements identified in items 1 and 2 of *Schedule 4.20* that the parties believe should be considered for modification by mutual agreement of F Co, C Co and F Co Parent for the purposes of effecting the integration of F Co with C Co on terms and conditions acceptable to each of F Co, C Co and F Co Parent, and deemed by each of them to be in its best interests following the Effective Time. To the extent such parties identify such changes and mutually agree to the terms and conditions thereof, they will enter into amendments to such Intercompany Agreements to reflect the same, effective as of the Effective Time and in form and substance to satisfactory to each party (the "*Integration Amendments*" and, together with the *Specified Amendments*, the "*Intercompany Agreement Amendments*").

SECTION 6.17 Existing F Co Indebtedness.

(a) F Co shall use its best efforts to complete one of the alternative transactions contemplated by the Bank Letter Agreement in accordance with the terms thereof (a "*Bank Letter Financing*"). If a Bank Letter Financing cannot be obtained, F Co shall use its best efforts to obtain alternative financing ("*Alternate Financing*") in an amount at least sufficient to repay, refinance or refund the amount of all loans, letters of credit and other obligations under the Credit Agreement among F Co, the lenders and other parties thereto dated as of March 9, 2005 (as amended to the date hereof, the "*F Co Credit Agreement*") and C Co's existing \$200 million credit facility (or, if applicable, the \$250 million unsecured term loan under the SunTrust Commitment) and to effect a termination of the F Co Credit Agreement and the payment of any and all related fees and expenses, at or prior to Closing (it being understood that such best efforts would not require F Co to obtain financing that is on terms substantially less favorable than a Bank Letter Financing, but will include best efforts to obtain financing on terms at least as favorable

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as a Bank Letter Financing). F Co shall keep C Co informed on a reasonably current basis in reasonable detail of the status of its respective best efforts to obtain a Bank Letter Financing or Alternate Financing in accordance with this *Section 6.17(a)* and shall not permit any material adverse amendment or modification to be made to, or any waiver of any provision or remedy under, the Bank Letter Agreement without obtaining the prior written consent of C Co.

(b) Without limiting the provisions of *Section 6.17(a)*, promptly following the date of this Agreement, each of F Co and C Co shall use its commercially reasonable efforts to arrange for adequate and appropriate financing facilities (which may include existing facilities) and other debt funding sources to provide for sufficient working capital and funds for other corporate purposes to C Co following Closing, on terms reasonably acceptable to F Co and C Co.

SECTION 6.18 Officer and Director Insurance; Indemnification.

(a) C Co shall purchase a six-year “tail” prepaid non-cancelable run-off insurance policy prior to the Effective Time on terms and conditions no less advantageous to the officers and directors of C Co than the existing directors’ and officers’ liability insurance maintained by C Co, to provide insurance coverage for events, acts or omissions occurring on or prior to the Closing (including for acts or omissions occurring on or prior to the Effective Time in connection with this Agreement and the consummation of the transactions contemplated hereby) for all persons who were directors or officers of C Co or any C Co Subsidiary on or prior to the Closing (the “*C Co Indemnified Parties*”). After the Closing, C Co shall, or shall cause the Surviving Company to, maintain such policies in full force and effect, for their full terms, and continue to honor their respective obligations thereunder.

(b) From and after the Effective Time, C Co shall indemnify and hold harmless the C Co Indemnified Parties and all persons who were directors or officers of F Co or any F Co Subsidiary on or prior to the Closing (the “*Indemnified Parties*”) against any costs or expenses (including reasonable attorneys’ fees), judgments, fines, losses, claims, damages or liabilities (collectively, the “*Costs*”) incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including any matters arising in connection with the transactions contemplated by this Agreement), to the fullest extent permitted by applicable law (and C Co shall also advance expenses as incurred to the fullest extent permitted under applicable law, *provided* that the person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such Person is not entitled to indemnification); and *provided, further*, that any determination as to whether an Indemnified Person is entitled to indemnification or advancement of expenses hereunder shall be made by independent counsel selected by C Co and such Person.

(c) Any Indemnified Party wishing to claim indemnification under paragraph (b) of this *Section 6.18*, upon learning of any such claim, action, suit, proceeding or investigation, shall promptly notify C Co thereof, but the failure to so notify shall not relieve C Co of any liability it may have to such Indemnified Party except to the extent such failure materially and actually prejudices the indemnifying party. In the event of any such claim, action, suit, proceeding, or investigation (whether arising before or after the Effective Time), (i) C Co shall have the right to assume the defense thereof and C Co shall not be liable to such Indemnified Parties for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Parties for any legal expense of other counsel or any other expenses subsequently incurred by such Indemnified Parties in connection with the defense thereof, except that if C Co does not elect to assume such defense or counsel for the Indemnified Parties reasonably concludes that there may be a conflict of interest between C Co and the Indemnified Parties, the Indemnified Parties may retain counsel satisfactory to them, and C Co shall be obligated to pay all reasonable fees and expenses of such counsel for the Indemnified Parties promptly as statements therefor are received; *provided, however*, that C Co shall be obligated pursuant to this paragraph (c) to pay for only

one firm of counsel for all Indemnified Parties in any jurisdiction unless the use of one counsel for such Indemnified Parties would present such counsel with a conflict of interest; *provided*, that the fewest number of counsel necessary to avoid conflicts of interest shall be used; (ii) the Indemnified Parties will use their reasonable efforts to cooperate in the defense of any such matter; and (iii) C Co shall not be liable for any settlement effected without their prior written consent (such consent not to be unreasonably withheld or delayed); and *provided, further*, that C Co shall not have any obligation under this Agreement to any Indemnified Party if and when a court of competent jurisdiction shall ultimately determine, and such determination shall have become final, that the indemnification of such Indemnified Party in the manner contemplated hereby is prohibited by applicable law.

(d) The obligations of C Co under this *Section 6.18* shall not be terminated or modified by such parties in a manner so as to adversely affect any Indemnified Party to whom this *Section 6.18* applies without the consent of the affected Indemnified Party. If C Co or any of its successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any individual, corporation or other entity, then, and in each such case, proper provisions shall be made so that the successors and assigns of C Co, as the case may be, shall assume all of the obligations set forth in this *Section 6.18*.

(e) The provisions of this *Section 6.18* are intended to be for the benefit of, and shall be enforceable as a contract by, each of the Indemnified Parties and their heirs and legal representatives.

(f) The rights of the Indemnified Parties and their heirs and legal representatives under this *Section 6.18* shall be in addition to any rights such Indemnified Parties may have under the articles of incorporation or bylaws of C Co or any of the C Co Subsidiaries, or under any other applicable laws.

SECTION 6.19 Governance of C Co. Subject to the receipt of the C Co Shareholder Approval, C Co shall take all action necessary to (i) cause the Articles Amendment to be duly executed, acknowledged and filed with the Secretary of State of the State of Georgia effective as of the Closing, (ii) cause the persons designated in accordance with Section 5.4(a) of the Shareholders Agreement to constitute the full Board of Directors of C Co as of the Closing and to be assigned to the applicable class of directors in the manner provided in the Shareholders Agreement, (iii) cause William P. Foley, II to be appointed as Chairman of the Board of Directors of C Co, provided that such individual is designated as a director in accordance with clause (ii), (iv) cause Lee A. Kennedy to be named as a director and the chief executive officer of C Co as of the Effective Time, provided that such individual has not previously terminated his employment with C Co and (v) cause the bylaws of C Co as of the Closing to be amended and restated in the form of the Bylaws attached as **Exhibit H** hereto.

SECTION 6.20 NYSE Symbol. C Co and F Co shall use their respective commercially reasonable efforts to cause the shares of C Co Common Stock to trade on the NYSE under the symbol “FIS” immediately after the Effective Time.

SECTION 6.21 Shelf Registration. Prior to the Effective Time, each of C Co and F Co shall cooperate in the preparation of a registration statement on Form S-3 (the “S-3”) and use their respective reasonable best efforts to cause such S-3 to be filed as soon as reasonably practicable after the Effective Time for purposes of effecting a registration of the Registrable Shares of the Sponsors (as such terms are defined in the Registration Rights Agreement) under such S-3 pursuant to Rule 415 under the Securities Act, on the terms and otherwise subject to the conditions of the Registration Rights Agreement; *provided, however*, that, notwithstanding the foregoing, the terms and conditions of the Shareholders Agreement and Lock-Up Agreement shall

govern the Transfer (as defined in the Shareholders Agreement) of any such Registrable Shares. To the extent available, each of C Co, Merger Co and F Co shall, prior to the Effective Time, use its reasonable best efforts to furnish all information concerning itself and its affiliates that is required to be included in such S-3.

ARTICLE VII CONDITIONS TO THE MERGER

SECTION 7.01 Conditions to the Obligations of Each Party. The obligations of C Co and F Co to consummate the Merger are subject to the satisfaction or waiver in writing (where permissible) of the following conditions:

(a) *C Co Shareholder Approval.* The C Co Shareholder Approval shall have been obtained.

(b) *Antitrust Approvals and Waiting Periods.* Any waiting period (and any extension thereof) applicable to the consummation of the Merger under applicable United States and non-United States antitrust or competition laws, including the HSR Act, shall have expired or been terminated, and any approvals required thereunder shall have been obtained in accordance with the provisions of *Section 6.13(b)* hereof.

(c) *No Order.* No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any injunction, order, decree or ruling (whether temporary, preliminary or permanent) which is then in effect and has the effect of making consummation of the Merger illegal or otherwise preventing or prohibiting consummation of the Merger.

(d) *Governmental Consents.* All material consents, approvals and authorizations legally required to be obtained to consummate the Merger hereto shall have been obtained from all Governmental Authorities and any conditions to the receipt of the any of the foregoing, individually or in the aggregate, are not reasonably expected to have an F Co Material Adverse Effect or a C Co Material Adverse Effect.

(e) *Special Dividend.* C Co shall have available to it sufficient funds, and shall be permitted under applicable law, to pay the Special Dividend, and the Board of Directors of C Co shall have duly declared the Special Dividend, any advance notice requirements applicable to the Special Dividend under the rules of the NYSE shall have been satisfied, and on or before the Closing Date, cash or other immediately available funds in amount equal to the Special Dividend shall have been deposited with a bank or trust company designated by C Co to act as agent for the Special Dividend Recipients in connection with payment of the Special Dividend, for the benefit of the Special Dividend Recipients, such cash not be used for any other purpose.

(f) *Dissenting Shares.* The number of shares of C Co Common Stock that are issued and outstanding immediately prior to the Effective Time and which are held by C Co shareholders who have properly exercised dissenters' rights with respect to such shares of C Co Common Stock in accordance with Sections 14-2-1321 and 14-2-1323 of the GBCC shall not exceed 5% of the then-outstanding shares of C Co Common Stock.

SECTION 7.02 Conditions to the Obligations of C Co The obligations of C Co to consummate the Merger, the Share Issuance and the Articles Amendment are subject to the satisfaction or waiver in writing (where permissible) of the following additional conditions:

(a) *Representations and Warranties.* The representations and warranties of F Co contained in this Agreement (other than those contained in Sections 4.03 and 4.04) shall be true and correct (without giving effect to any limitation on any representation or warranty indicated by the words "F Co Material Adverse Effect", except for the limitation set forth in the first sentence of *Section 4.09*) as of the Effective Time, as though made on and as of the Effective Time (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation on any representation or warranty indicated by the words "F Co Material Adverse Effect", except for the limitation set forth in the first sentence of *Section 4.09*) would not, individually or in the aggregate, reasonably be expected to have a F Co

Material Adverse Effect. The representations and warranties of F Co in Sections 4.03 and 4.04 shall be true and correct in all material respects at the Effective Time.

(b) *Agreements and Covenants.* F Co shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time.

(c) *Officer's Certificates.* F Co shall have delivered to C Co a certificate, dated the date of the Closing, signed by an officer thereof and certifying as to the satisfaction of the conditions specified in Sections 7.02(a) and 7.02(b).

(d) *Tax Opinion.* C Co shall have received from Kilpatrick Stockton LLP, counsel to C Co, on the Closing Date, an opinion, dated as of such date and stating that the Merger will qualify for U.S. federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code (the issuance of such opinion shall be conditioned upon the receipt by such tax counsel of tax representation certificates from each of F Co, each stockholder of F Co, Merger Co and C Co, in each case, substantially in the form attached as **Exhibits G-1, G-2 and G-3** hereto).

(e) *Ancillary Agreements.* F Co and its stockholders shall have executed and delivered each Ancillary Agreement to which they are or have been designated to become a party pursuant to this Agreement.

(f) *FIRPTA Compliance.* F Co shall, on or prior to the Closing Date, provide C Co with a properly executed Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") Notification Letter, in form and substance reasonably satisfactory to C Co, which states that shares of capital stock of F Co do not constitute "United States real property interests" under Section 897(c) of the Code, for purposes of satisfying C Co's obligations under Treasury Regulation Section 1.1445-2(c)(3). In addition, simultaneously with delivery of such Notification Letter, F Co shall have provided to C Co, as agent for F Co, a form of notice to the IRS in accordance with the requirements of Treasury Regulation Section 1.897-2(h)(2) along with written authorization for C Co to deliver such notice form to the IRS on behalf of F Co upon the consummation of the Merger.

(g) *Termination of Certain Other F Co Contracts.* C Co shall have been furnished evidence reasonably satisfactory to it that all Contracts listed on *Schedule 6.15* shall have terminated prior to the Closing Date at no cost to F Co, and that F Co shall not have any further liability or obligation under any such Contract thereafter.

(h) *F Co Stockholders.*

(i) The representations and warranties of each stockholder of F Co contained in the Commitment Agreement shall be true and correct as of the Effective Time, as though made on and as of the Effective Time (except to the extent expressly made as of an earlier date, in which case as of such earlier date).

(ii) Each stockholder of F Co shall have performed or complied in all material respects with all agreements and covenants required by the Commitment Agreement to be performed or complied with by it on or prior to the Effective Time.

(i) *Amended Intercompany Agreements.* F Co and F Co Parent, or their applicable Subsidiaries) shall have executed and delivered each Specified Amendment to an Intercompany Agreement to which they are a party, and each Integration Amendment to which they have agreed.

(j) *Financing.* F Co shall have obtained a Bank Letter Financing or Alternate Financing on terms not substantially less favorable than those of a Bank Letter Financing.

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SECTION 7.03 Conditions to the Obligations of F Co. The obligations of F Co to consummate the Merger are subject to the satisfaction or waiver in writing (where permissible) of the following additional conditions:

(a) *Representations and Warranties.* The representations and warranties of C Co contained in this Agreement (other than those contained in Sections 3.03 and 3.04) shall be true and correct (without giving effect to any limitation on any representation or warranty indicated by the words “C Co Material Adverse Effect”, except for the limitation set forth in the first sentence of Section 3.09) as of the Effective Time, as though made on and as of the Effective Time (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation on any representation or warranty indicated by the words “C Co Material Adverse Effect”, except for the limitation set forth in the first sentence of Section 3.09) would not, individually or in the aggregate, reasonably be expected to have a C Co Material Adverse Effect. The representations and warranties of C Co in Sections 3.03 and 3.04 shall be true and correct in all material respects at the Effective Time.

(b) *Agreements and Covenants.* C Co and Merger Co shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by them on or prior to the Effective Time.

(c) *Officer’s Certificates.* Each of C Co and Merger Co shall have delivered to F Co a certificate, dated the date of the Closing, signed by an officer thereof, certifying as to the satisfaction of the conditions specified in Sections 7.03(a) and 7.03(b).

(d) *Tax Opinion.* F Co shall have received from Weil, Gotshal & Manges LLP, counsel to F Co, on the Closing Date, an opinion, dated as of such date and stating that the Merger will qualify for U.S. federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code (the issuance of such opinion shall be conditioned upon the receipt by such tax counsel of tax representation certificates from each of C Co, each stockholder of F Co, Merger Co and F Co, in each case, substantially in the form attached as Exhibits G-1, G-2 and G-3 hereto).

(e) *Ancillary Agreements.* C Co shall have executed and delivered each Ancillary Agreement to which it has been designated to become a party pursuant to this Agreement.

(f) *FIRPTA Compliance.* C Co shall, on or prior to the Closing Date, provide each stockholder of F Co with a properly executed FIRPTA Notification Letter, in form and substance reasonably satisfactory to each such shareholder, which states that, after giving effect to the Merger, shares of capital stock of C Co do not constitute “United States real property interests” under Section 897(c) of the Code. In addition, at or prior to the Effective Time, C Co shall have delivered to the IRS a form of notice in accordance with the requirements of Treasury Regulation Section 1.897-2(h)(2).

(g) *Amended Intercompany Agreements.* C Co shall have executed and delivered each Intercompany Agreement Amendment to which it has agreed to become a party pursuant to this Agreement.

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ARTICLE VIII TERMINATION, AMENDMENT AND WAIVER

SECTION 8.01 Termination. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by action taken or authorized by the Board of Directors of the terminating party or parties, notwithstanding any requisite approval of the Share Issuance or the Articles Amendment by the shareholders of C Co, and whether before or after the shareholders of C Co have approved the Share Issuance and the Articles Amendment at the C Co Shareholders’ Meeting, as follows (the date of any such termination, the “Termination Date”):

(a) by mutual written consent of C Co and F Co;

(b) by either C Co or F Co if the Effective Time shall not have occurred on or before March 31, 2006; *provided, however*, that the right to terminate this Agreement under this Section 8.01(b) shall not be available to the party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date;

(c) by either C Co or F Co if any Governmental Authority shall have enacted, issued, promulgated, enforced or entered any injunction, order, decree or ruling or taken any other action (including the failure to have taken an action) which, in either such case, has become final and non-appealable and has the effect of making consummation of the Merger illegal or otherwise preventing or prohibiting consummation of the Merger; *provided, however*, that the right to terminate this Agreement pursuant to this Section 8.01(c) shall not be available to the party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the imposition of such injunction, order, decree, ruling or other action or the failure of such injunction, order, decree, ruling or other action to be resisted, resolved or lifted, as applicable;

(d) by C Co if it is not in material breach of its obligations under this Agreement, and if (i) any of the representations and warranties of F Co herein would fail to be true and correct as of the Effective Time, as though made on and as of the Effective Time, such that Section 7.02(a) would not be

satisfied, or (ii) there has been a breach on the part of F Co of any of its covenants or agreements herein such that *Section 7.02(b)* would not be satisfied, and, in either such case, such failure or breach has not been, or cannot reasonably be expected to be, cured within 30 days after notice to F Co;

(e) by F Co if it is not in material breach of its obligations under this Agreement, and if (i) any of the representations and warranties of C Co would fail to be true and correct as of the Effective time, as though made on and as of the Effective Time, such that *Section 7.03(a)* would not be satisfied, or (ii) there has been a breach on the part of C Co of any of their covenants or agreements herein such that *Section 7.03(b)* would not be satisfied, and, in either such case, such failure or breach has not been, or cannot reasonably be expected to be, cured within 30 days after notice to C Co;

(f) by C Co if each stockholder of F Co shall not have executed and delivered to the Secretary of F Co and to C Co a written consent pursuant to Section 228 of the DGCL, in the form attached hereto as **Exhibit I**, pursuant to which such stockholder shall have consented to the adoption by F Co of this Agreement, in each case no later than six hours after the execution of this Agreement by the parties hereto;

(g) by either C Co or F Co if (i) the C Co Shareholder Approval shall not have been obtained at the C Co Shareholders' Meeting (as such may be postponed or adjourned), (ii) if C Co shall have breached its obligations with respect to preparing and filing the Proxy Statement as set forth in *Section 6.01*, or (iii) if C Co shall have breached its obligations to duly call, convene and hold the C Co Shareholders' Meeting as set forth in *Section 6.02* hereof;

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(h) by F Co if the C Co Board shall have: (i) effected a Change of Board Recommendation (it being understood and agreed that any "stop-look-and-listen" communication by the C Co Board to the shareholders of C Co pursuant to Rule 14d-9(f) of the Exchange Act, or any substantially similar communication to the shareholders of C Co in connection with the commencement of a tender offer or exchange offer, shall not be deemed to constitute a Change of Board Recommendation), or (ii) recommended or approved any C Co Acquisition Proposal; or

(i) by C Co if, prior to the Effective Time, the C Co Board (or any committee thereof) determines in good faith (after consultation with its outside legal counsel and financial advisors), in the exercise of its fiduciary duties, that a C Co Acquisition Proposal not solicited or initiated in violation of *Section 6.05* is a Superior Proposal, but only (i) after providing to F Co a Notice of Superior Proposal with respect to such Superior Proposal, and (ii) if F Co does not, within five business days of its receipt of the Notice of Superior Proposal, make an offer that the C Co Board (or any committee thereof) determines, in its good faith judgment (after consultation with its financial advisors) to be at least as favorable to C Co and its shareholders as such Superior Proposal; *provided* that during such five business day period, C Co shall negotiate in good faith with F Co (to the extent F Co wishes to negotiate) to enable F Co to make such an offer; and *provided, further*, that, in the event of any amendment to the financial or other material terms of such Superior Proposal, the C Co Board shall deliver to F Co an additional written Notice of Superior Proposal, and the five business day period referenced above shall be extended for an additional five business days after F Co's receipt of such additional Notice of Superior Proposal; *provided, however*, that any such purported termination pursuant to this *Section 8.01(i)* shall be void and of no force or effect unless C Co concurrently with such termination pays the C Co Termination Fee as directed by F Co in writing in accordance with *Section 8.03*. C Co shall keep F Co reasonably informed of the status of any proposals and offers for which C Co has delivered a Notice of Superior Proposal of to F Co under the terms hereof.

For purposes of this Agreement, "*Superior Proposal*" means any bona fide written C Co Acquisition Proposal (with all of the percentages included in the definition of "C Co Acquisition Proposal" increased to 50%) that is on terms that the C Co Board determines in its good faith judgment (after consultation with its financial advisor and its outside legal counsel and after taking into account all the terms and conditions of the C Co Acquisition Proposal and this Agreement) are more favorable to C Co and its shareholders (in their capacities as shareholders), from a financial point of view, than this Agreement (taking into account any alterations to this Agreement agreed to in writing by F Co in response thereto).

SECTION 8.02 Effect of Termination. In the event of the termination of this Agreement pursuant to *Section 8.01*, this Agreement shall forthwith become void and have no effect, and there shall be no further liability or obligation under this Agreement on the part of any party hereto or their respective officers, directors and subsidiaries, except with respect to the Confidentiality Agreements and the provisions of *Section 6.03(b)*, this *Section 8.02*, *Section 8.03* and *Article X*, which shall survive any such termination; *provided, however*, that no such termination shall release or relieve any party hereto from any liabilities or damages arising out of or resulting from such party's material breach of any representation, warranty or covenant in this Agreement.

SECTION 8.03 Fees and Expenses.

(a) *Expenses.* Except as otherwise set forth in this *Section 8.03*, all Expenses incurred in connection with this Agreement shall be paid by the party incurring such expenses, whether or not the Merger is consummated, except that each of C Co and F Co shall bear and pay one half of (i) the costs and expenses (other than attorneys and accountants' fees and expenses, which shall be paid by the party incurring such expense) incurred in connection with the printing, filing (with the SEC) and mailing of the Proxy Statement (including any SEC filing fees), whether or not the Merger is consummated, and (ii) filing

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fees for the Notification and Report Forms filed with the FTC and DOJ under the HSR Act and premerger notification and reports formed under similar applicable antitrust law of any non-United States governmental antitrust authority in each case pursuant to *Section 6.13(b)*. "*Expenses*", as used in this Agreement, shall include all reasonable out-of-pocket documented expenses (including all fees and expenses of counsel, accountants, investment bankers, financing sources, hedging counterparties, experts and consultants to a party hereto and its affiliates) incurred by a party or on its behalf in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement, the preparation, printing, filing and mailing of the Proxy Statement, the solicitation of shareholder approval of the Share Issuance and all other matters related to the closing of the Merger.

(b) *C Co Termination Fee Events.* C Co agrees that if this Agreement shall be terminated:

(i) by C Co or F Co pursuant to *Section 8.01(g)(i)*, and (A) at or prior to the Termination Date, a C Co Acquisition Proposal (but substituting 50% for the 25% threshold set forth in the definition thereof, a "*Covered Proposal*") shall have been publicly announced that appears to have been bona fide and such Covered Proposal shall not have been withdrawn at the time of the C Co Shareholders Meeting and (B) no later than 12 months after the Termination Date, any transaction that would otherwise be a Superior Proposal is consummated, then C Co shall pay the C Co Termination Fee, less the amount of any Expense Reimbursement, pursuant to *Section 8.03(c)*; *provided*, that if this Agreement is terminated by C Co or F Co pursuant to *Section 8.01(g)(i)*, and a public announcement regarding a Covered Proposal is made as contemplated in *Section 8.03(b)(i)* (A) above, then, regardless of whether a Covered Proposal is consummated, C Co shall reimburse F Co for all Expenses incurred by F Co up to the

date of such termination in an amount not to exceed \$10,000,000 (the “Expense Reimbursement”) as directed by F Co in writing within two business days after the date of such termination;

(ii) by C Co or F Co pursuant to *Section 8.01(g)(ii)* or *Section 8.01(g)(iii)*, then C Co shall pay the C Co Termination Fee pursuant to *Section 8.03(c)*;

(iii) by F Co pursuant to *Section 8.01(h)*, then (so long as F Co was not in breach of any of its representations, warranties or covenants in this Agreement such that the applicable condition to C Co’s obligation to consummate the Merger would not have been satisfied as of the Termination Date) C Co shall pay the C Co Termination Fee pursuant to *Section 8.03(c)*; or

(iv) by C Co pursuant to *Section 8.01(i)*, then C Co shall pay the C Co Termination Fee pursuant to *Section 8.03(c)*.

(c) *Manner of Payment of C Co Termination Fee.* The C Co Termination Fee shall be paid by C Co as directed by F Co in writing in immediately available funds (i) concurrently with and as a condition to the effectiveness of a termination of this Agreement by C Co pursuant to *Section 8.01(i)* and (ii) within two business days after the date of the event giving rise to the obligation to make such payment in all other circumstances.

(d) *Amount of C Co Termination Fee.* For purposes of this Agreement, “C Co Termination Fee” means an amount equal to \$65,000,000.

(e) *Agreements Regarding Termination Fees.* Each of C Co, Merger Co and F Co acknowledge that the agreements contained in this *Section 8.03* are an integral part of the transactions contemplated by this Agreement. If C Co shall fail to pay the C Co Termination Fee or the Expense Reimbursement when due, C Co shall reimburse F Co for all reasonable costs and expenses actually incurred or accrued by such other party (including reasonable fees and expenses of counsel) in connection with the collection under and enforcement of this *Section 8.03*.

SECTION 8.04 Amendment. This Agreement may be amended at any time prior to the Effective Time to the extent permitted by law. Any amendment may be effected only by an instrument in writing signed by the C Co, Merger Co and F Co.

SECTION 8.05 Waiver. At any time prior to the Effective Time, any party hereto may (a) extend the time for the performance of any obligation or other act of any other party hereto, (b) waive any inaccuracy in the representations and warranties of any other party contained herein or in any document delivered pursuant hereto and (c) waive compliance with any agreement of any other party or any condition to its own obligations contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby. The failure or delay of any party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of those rights.

ARTICLE IX GENERAL PROVISIONS

SECTION 9.01 Non-Survival of Representations, Warranties and Agreements. The representations and warranties of each of C Co and F Co in this Agreement and in any certificate delivered pursuant hereto shall terminate at the Effective Time and neither C Co nor F Co, nor any of their respective officers, directors or shareholders shall have any liability with respect thereto. This *Section 9.01* shall not limit (i) any covenants in this Agreement, which will survive and remain in effect indefinitely, or (ii) any agreement of the parties which by its terms contemplates performance after the Effective Time.

SECTION 9.02 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing in the English language and shall be deemed given (a) on the date of delivery if delivered personally, (b) on the first business day following the date of dispatch if delivered by a nationally recognized next-day courier service, (c) on the fifth business day following the date of mailing if delivered by registered or certified mail (postage prepaid, return receipt requested) or (d) if sent by facsimile transmission, when transmitted and receipt is confirmed. All notices under *Section 6.04*, *Section 6.05*, *Section 6.12* or *Article VIII* shall be delivered by courier and facsimile transmission to the respective parties at the addresses provided in accordance with this *Section 9.02*. All notices hereunder shall be delivered to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this *Section 9.02*):

If to C Co:

Certegy Inc.
100 Second Avenue South
Suite 1100S
St. Petersburg, FL 33701
Attention: Walter M. Korchun
Facsimile No.: (727) 227-8558

with copies to:

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: W. Stanley Blackburn, Esq.
Bruce D. Wanamaker, Esq.
Facsimile No.: (404) 541-3132

and

Attention Bruce S. Wilson
Facsimile No.: (202) 778-5400

and

Covington & Burling
1330 Avenue of the Americas
New York, NY 10019
Attention Stephen A. Infante
Facsimile No.: (212) 841-1010

if to F Co:

Fidelity National Information Services, Inc
601 Riverside Avenue
Jacksonville, FL 32204
Attention: Christopher Rose
Facsimile No.: (904) 357-1026

with copies to:

Weil, Gotshal & Manges LLP
100 Federal Street
Boston, MA 02110
Attention: James Westra, Esq.
Marilyn French, Esq.
Facsimile No.: (617) 772-8333

SECTION 9.03 *Certain Definitions.*

(a) *Definitions.* For purposes of this Agreement:

“*affiliate*” of a specified person means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person.

“*Affiliated Group*” has the meaning ascribed to it in Section 1504(a) of the Code or any other provision or law pursuant to which Taxes or Tax Returns are or may be paid or filed on a consolidated, combined or unitary basis.

“*Ancillary Agreements*” means the Commitment Agreement, Shareholders Agreement, Lock-Up Agreement, Registration Rights Agreement, and each Intercompany Agreement.

“*Association*” means Visa U.S.A., Inc. or MasterCard International, Incorporated, any other similar card and/or ATM network operator, and/or their respective successors and assigns.

“*beneficial owner*”, with respect to any Shares, has the meaning ascribed to such term under Rule 13d-3(a) of the Exchange Act.

“*business day*” means any day on which the principal offices of the SEC in Washington, D.C. are open to accept filings, or, in the case of determining a date when any payment is due, any day on which banks are not required or authorized to close in the City of New York or the State of Florida.

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“*control*” (including the terms “*controlled by*” and “*under common control with*”) means the possession, directly or indirectly, or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contractor credit arrangement or otherwise.

“*F Co Parent*” means Fidelity National Financial, Inc., a Delaware corporation.

“*knowledge of F Co*” or “*F Co’s knowledge*” means the actual knowledge of any executive officer of F Co or any of the persons set forth in Section 9.03(a) of the F Co Disclosure Statement.

“*knowledge of C Co*” or “*C Co’s knowledge*” means the actual knowledge of any executive officer of C Co.

“*Operating Rule*” means any requirement imposed by the Associations, directly or indirectly, related to transactions cleared through the Associations.

“*person*” means an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person (including a “person” as defined in Section 13(d)(3) of the Exchange Act), trust, association or entity or government, political subdivision, agency or instrumentality of a government.

“*subsidiary*” or “*subsidiaries*” of any person means an affiliate controlled by such person, directly or indirectly, through one or more intermediaries, and, without limiting the foregoing, includes any entity in respect of which such person, directly or indirectly, beneficially owns 50% or more of the voting securities or equity.

(b) *Other Defined Terms.* The following terms have the meaning set forth in the Sections set forth below:

<u>Defined Term</u>	<u>Section</u>
Action	3.10
Agreement	Preamble
Alternate Financing	6.17(a)
Annual Combined Financial Statements	4.07(b)
Articles Amendment	Preamble
Bank Letter Agreement	4.05(b)
Bank Letter Financing	6.17(a)

C Co	Preamble
C Co Acquisition Proposal	6.05(e)
C Co Board	Preamble
C Co Board Recommendation	3.21
C Co Change in Control Agreement	3.11(c)
C Co Closing Documents	3.04
C Co Common Stock	Preamble
C Co Disclosure Schedule	Article III
C Co ERISA Affiliate	3.11(b)
C Co Indemnified Parties	6.18(a)
C Co Industries	3.01(d)
C Co Intellectual Property	3.14(a)
C Co Investments	3.01(c)
C Co Leased Properties	3.13(b)
C Co Material Adverse Effect	3.01(d)
C Co Material Customers	3.19(a)
C Co Owned Real Property	3.13(a)

C Co Permits	3.06(a)
C Co Plans	3.11(a)
C Co Preferred Stock	3.03(a)
C Co Proposal	3.21
C Co Related Persons	3.20
C Co Restricted Stock Units	3.03(a)
C Co Rights	3.03(c)
C Co Rights Agreement	3.03(c)
C Co Shareholder Approval	3.04
C Co Shareholders' Meeting	6.02
C Co Software	3.14(h)
C Co Stock Option Plans	3.03(a)
C Co Stock Options	3.03(a)
C Co Subsidiary	3.01(a)
C Co Termination Fee	8.03(d)
Certificate of Merger	1.03
Certificates	2.03(a)
Change in Board Recommendation	6.05(c)
Closing	1.02
Closing Date	1.02
COBRA	3.11(q)
Code	Preamble
Commitment Agreement	Preamble
Company Confidentiality Agreement	6.03(b)
Confidentiality Agreements	6.03(b)
Consent Commitments	4.05(b)
Continuation Period	6.07(a)
Continuing Employee	6.07(a)
Contract	3.05(a)
Costs	6.18(b)
Covered Proposal	8.03(b)(i)
DGCL	Preamble
Disclosure Schedules	9.05(b)
DLLCA	Preamble
Effective Time	1.03
Environmental Laws	3.16(c)(i)
Environmental Permits	3.16(c)(ii)
ERISA	3.11(a)
Exchange Act	3.05(b)
Exchange Ratio	2.01(a)
Expense Reimbursement	8.03(b)(i)
Expenses	8.03(a)
F Co	Preamble
F Co Board	Preamble
F Co Change in Control Agreement	4.11(c)
F Co Closing Documents	4.04
F Co Common Stock	2.01(a)
F Co Credit Agreement	6.17(a)
F Co Disclosure Schedule	Article IV

F Co ERISA Affiliate	4.11(b)
F Co Financial Statements	4.07(b)
F Co Industries	4.01(d)
F Co Intellectual Property	4.14(a)
F Co Investments	4.01(c)
F Co Leased Properties	4.13(b)
F Co Material Adverse Effect	4.01(d)
F Co Material Customers	4.19(a)
F Co Owned Real Property	4.13(a)
F Co Permits	4.06(a)
F Co Plans	4.11(a)
F Co Related Persons	4.20
F Co Separate Plans	4.11(a)
F Co Software	4.14(h)
F Co Stock Option Plan	4.03(a)
F Co Stock Options	4.03(a)
F Co Subsidiary	4.01(a)
FASB	5.01(i)
FIRPTA	7.02(f)
Foreign C Co Plan	3.11(p)
Foreign F Co Plan	4.11(p)
GAAP	3.07(b)
GBCC	3.04
Governmental Authority	3.05(b)
Hazardous Substances	3.16(c)(iii)
HSR Act	3.05(b)
Indemnified Parties	6.18(b)
Integration Amendments	6.16
Intercompany Agreement Amendments	6.16
Intercompany Agreements	4.20
Interim Balance Sheet	4.07(b)
IRS	3.11(a)
law	3.05(a)
Liens	3.13(a)
Lock-Up Agreement	2.07(d)
Merger	Preamble
Merger Co	Preamble
Multiemployer Plan	3.11(b)
Multiple Employer Plan	3.11(b)
NLRB	3.12(b)
NYSE	2.01(d)
Other Filings	3.08
Other Transactions	3.04
PBGC	3.11(m)
Permitted Liens	3.13(a)
Proxy Statement	3.05(b)
Quarterly Financials	6.04
Registration Rights Agreement	2.07(d)
Regulation S-X	5.01(i)

Representatives	6.03(a)
Sarbanes-Oxley Act	3.07(a)
SEC	3.05(b)
SEC Reports	3.07(a)
Securities Act	3.07(a)
Share Issuance	Preamble
Shareholders Agreement	Preamble
Shares	2.01(a)
Special Dividend	Preamble
Special Dividend Recipients	6.06
Specified Amendments	6.16
Specified C Co Contract	3.17(b)
Specified F Co Contract	4.17(b)
SunTrust Commitment	3.5(b)
Superior Proposal	8.01

Superior Proposal Notice	6.05(b)
Surviving Company	1.01
Surviving Welfare Benefit Plans	6.07(c)
Tax or Taxes	3.15(m)(i)
Tax Returns	3.15(m)(ii)
Termination Date	8.01
Unaudited Financial Statements	4.07(b)

(c) *Certain References and Interpretation of Terms.* When a reference is made in this Agreement to an Article or Section, Schedule or Exhibit, such reference shall be to an Article, Section, Schedule or Exhibit of this Agreement, respectively, unless otherwise indicated. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement. The words “date hereof” shall refer to the date of this Agreement. The term “or” is not exclusive. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or thing extends, and such phrase shall not mean simply “if”. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. References to “the Agreement” shall include the C Co Disclosure Schedule and F Co Disclosure Schedule. References to a person are also to its permitted successors and assigns. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

SECTION 9.04 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 9.05 Disclaimer of Other Representations and Warranties; Disclosure Schedules.

(a) C Co, Merger Co and F Co each acknowledges and agrees that, except for the representations and warranties expressly set forth in this Agreement, the No-Shop Agreement and the

Shareholders Agreement (a) no party makes, and has not made, any representations or warranties relating to itself or its businesses or otherwise in connection with the Merger, (b) no person has been authorized by any party to make any representation or warranty relating itself or its businesses or otherwise in connection with the Merger and, if made, such representation or warranty must not be relied upon as having been authorized by such party, and (c) any estimates, projections, predictions, data, financial information, memoranda, presentations or any other materials or information provided or addressed to any party or any of its Representatives are not and shall not be deemed to be or to include representations or warranties unless any such materials or information is the subject of any representation or warranty set forth in this Agreement.

(b) The representations and warranties contained in *Article III* are qualified by reference to the C Co Disclosure Schedule, and the representations and warranties in *Article IV* are qualified by reference to the F Co Disclosure Schedule (together with the C Co Disclosure Schedule, the “*Disclosure Schedules*”). The parties agree that neither Disclosure Schedule is intended to constitute, nor shall it be construed as constituting, representations and warranties of the parties providing the Disclosure Schedule hereunder, except to the extent expressly provided in this Agreement. Each party acknowledges that (i) the Disclosure Schedule provided to it may include items or information that the providing parties are not required to disclose under this Agreement, (ii) disclosure of such items or information shall not affect, directly or indirectly, the interpretation of this Agreement or the scope of the disclosure obligations under this Agreement of the parties providing the Disclosure Schedule, and (iii) inclusion of information in a Disclosure Schedule shall not be construed as an admission that such information is material to C Co and the C Co Subsidiaries or F Co and the F Co Subsidiaries, as the case may be. Similarly, in such matters where a representation or warranty is given or other information is provided, the disclosure of any matter in a Disclosure Schedule shall not imply that any other undisclosed matter having a greater value or other significance is material. Each party further acknowledges that (A) headings have been inserted on Sections of each Disclosure Schedule for the convenience of reference only and shall not affect the construction or interpretation of any of the provisions of this Agreement or any Disclosure Schedule, (B) cross references that may be contained in Sections of a Disclosure Schedule to other Sections of that Disclosure Schedule are not all-inclusive of all disclosures contained in such referenced Sections of the Disclosure Schedule and (C) information contained in various Sections of a Disclosure Schedule may be applicable to other Sections of a Disclosure Schedule; accordingly, every disclosure in one Section of a Disclosure Schedule shall be deemed to be disclosed under each and every part, category, heading or subheading of such Section and all other Sections of the Disclosure Schedule and shall be deemed to qualify the representations and warranties in this Agreement of the parties providing the Disclosure Schedule, to the extent such may apply if (x) a cross-reference to such other Section of the Disclosure Schedule is made or (y) the relevance of such disclosure to such other Section of the Disclosure Schedule is reasonably apparent.

SECTION 9.06 Entire Agreement; Assignment. This Agreement, the No-Shop Agreement, the Shareholders Agreement and the other documents, instruments and agreements among the parties as contemplated by or referred to herein or therein and the Confidentiality Agreements constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement shall not be assigned (whether pursuant to a merger, by operation of law or otherwise).

SECTION 9.07 Specific Performance. The parties agree that irreparable damage would occur in the event any provision of this Agreement were not performed by C Co, Merger Co or F Co in accordance with the terms hereof and that, prior to the termination of this Agreement pursuant to *Section 8.01*, the terminating party shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

SECTION 9.08 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason

Schedules

<u>Section</u>	<u>Title</u>
3.01	Organization and Qualification; C Co Subsidiaries
3.03	Capitalization
3.05	No Conflict; Required Filings and Consent
3.06	Permits; Compliance; Regulatory Matters
3.09	Absence of Certain Changes or Events
3.10	Absence of Litigation
3.11	Employee Benefit Plans
3.12	Labor and Employment Matters
3.13	Real and Personal Property
3.14	Intellectual Property
3.17	Specified C Co Contracts
3.18	Insurance
3.19	Material Customers
4.01	Organization and Qualification; F Co Subsidiaries
4.02	Certificate of Incorporation and Bylaws
4.03	Capitalization
4.04	Authority Relative to Title Agreement
4.05	No Conflict; Required Filings and Consents
4.06	Permits; Compliance
4.07	SEC Filings; Financial Statements; Undisclosed Liabilities
4.08	Information Supplied
4.09	Absence of Certain Changes or Events
4.10	Absence of Litigation
4.11	Employee Benefit Plans
4.12	Labor and Employment Matters
4.13	Real and Personal Property
4.14	Intellectual Property
4.15	Taxes
4.16	Environmental Matters

4.17	Specified F Co Contracts
4.18	Insurance
4.19	Material Customers
4.21	Adoption by Board
4.23	Brokers
4.24	Opinions of Financial Advisors
5.01	Conduct of Business Pending the Merger
5.02	Conduct of Business by F Co Pending the Merger
6.15(a)	Certain Terminating F Co Contracts
6.15(b)	Certain Continuing F Co Contracts
6.16	Amendments to Intercompany Agreements

SHAREHOLDERS AGREEMENT

SHAREHOLDERS AGREEMENT dated September 14, 2005 among (i) Certegy Inc., a Georgia corporation to be renamed Fidelity National Information Services, Inc. (the “*Company*”), (ii) Fidelity National Financial, Inc., a Delaware corporation (“*F Co Parent*”), (iii) THL FNIS Holdings, LLC, Thomas H. Lee Cayman Fund V, L.P., Thomas H. Lee Investors Limited Partnership, Putnam Investment Holdings, LLC, Putnam Investments Employees’ Securities Company I LLC, and Putnam Investments Employees’ Securities Company II, LLC (collectively, “*THL*”), (iv) TPG FNIS Holdings, LLC, TPG Parallel III, L.P., TPG Investors III, L.P., FOF Partners III, L.P., FOF Partners III-B, L.P., and TPG Dutch Parallel III, C.V. (collectively, “*TPG*”), and (v) Evercore METC Capital Partners II, LLC (“*Evercore*”, and together with F Co Parent, THL, TPG and Evercore, the “*Shareholders*”).

WHEREAS, the Company, C Co Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of the Company (“*Merger Co*”), and Fidelity National Information Services, Inc., a Delaware corporation (“*F Co*”), have entered into an Agreement and Plan of Merger dated as of September 14, 2005 (as the same may be amended or supplemented, the “*Merger Agreement*”), pursuant to and subject to the terms and conditions of which, among other things, F Co will merge with and into Merger Co, with Merger Co surviving as a wholly owned subsidiary of the Company (the “*Merger*”);

WHEREAS, upon consummation of the Merger, the Shareholders will Beneficially Own (as hereafter defined), in the aggregate, approximately 67% of the Fully Diluted Voting Securities (as hereafter defined); and

WHEREAS, the parties hereto desire to enter into this Agreement to establish certain arrangements with respect to the shares of Common Stock to be Beneficially Owned by the Shareholders and their respective Affiliates following the Effective Time (as defined in the Merger Agreement), as well as restrictions on certain activities in respect of the Common Stock, corporate governance and other related corporate matters;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Company and the Shareholders hereby agree, subject to the conditions herein contained, as follows:

ARTICLE 1 INTERPRETATION

1.1 Certain Defined Terms. As used in this Agreement, the following terms have the following meanings:

“*Affiliate*” means, with respect to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such specified Person, *provided* that, solely for purposes of this Agreement and notwithstanding anything to the contrary set forth herein, (i) neither the Company nor any of its Subsidiaries shall be deemed to be a Subsidiary or Affiliate of any Shareholder solely by virtue of such Shareholder’s ownership of Common Stock, the election of Directors nominated by such Shareholder to the Board, the election of any other Directors nominated by the Nominating Committee of the Board or any other action taken by such Shareholder or its Affiliates which is permitted under this Agreement which may be deemed to constitute control of the Company, in each case in accordance with the terms and conditions of, and subject to the limitations and restrictions set forth in, this Agreement (and irrespective of the characteristics of the aforesaid relationships and actions under applicable law or accounting principles) and (ii) no limited partner of THL, TPG, or Evercore, or any affiliated investment fund of such Shareholder, not actively involved in the management thereof, or any Person the Capital Stock of which is owned by any such Shareholder or an affiliated investment fund but who is not controlled by such Shareholder or affiliated investment fund, shall be deemed to be an “*Affiliate*” of such Shareholder. For the purposes of this

definition, “*control*” (including, with correlative meaning, all conjugations thereof) means with respect to any Person, the ability of another Person to control or direct the actions or policies of such first Person, whether through the ownership of voting securities, by contract or otherwise.

“*Agreement*” means this Shareholders Agreement as it may be amended, supplemented, restated or modified from time to time.

“*Beneficial Ownership*” by a Person of any securities includes ownership by any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares (i) voting power which includes the power to vote, or to direct the voting of, such security; and/or (ii) investment power which includes the power to dispose, or to direct the disposition, of such security; and shall otherwise be interpreted in accordance with the term “*beneficial ownership*” as defined in Rule 13d-3 adopted by the SEC under the Exchange Act; *provided* that for purposes of determining Beneficial Ownership, a Person shall be deemed to be the Beneficial Owner of any securities which may be acquired by such Person pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise (irrespective of whether the right to acquire such securities is exercisable immediately or only after the passage of time, including the passage of time in excess of 60 days, the satisfaction of any conditions, the occurrence of any event or any combination of the foregoing). For purposes of this Agreement, a Person shall be deemed to Beneficially Own any securities Beneficially Owned by its Affiliates or any Group of which such Person or any such Affiliate is or becomes a member; *provided, however*, that shares of Common Stock subject to options granted under Company benefit plans or shares of Common Stock (including derivative interests therein) otherwise issued under Company benefit plans to any Person who, at the time of the grant or issuance, was an officer or director of the Company or any of its Subsidiaries shall not solely for that reason be deemed to be Beneficially Owned by F Co Parent or any of its Affiliates. The term “*Beneficially Own*” shall have a correlative meaning.

“*Board*” shall mean the Board of Directors of the Company.

“*Business Day*” shall mean any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in the State of Florida.

“*Bylaws*” means the bylaws of the Company, as amended or supplemented from time to time.

“*Capital Stock*” means, with respect to any Person at any time, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of capital stock, partnership interests (whether general or limited), membership interests, or equivalent ownership interests in or issued by such Person.

“*Charter*” means the Amended and Restated Articles of Incorporation of the Company, the form of which is set forth in Exhibit A to the Merger Agreement, as amended or supplemented from time to time.

“*Class 1 Director*” means a Director holding office for a term expiring at the 2006 annual meeting of the Company’s Shareholders.

“*Class 2 Director*” means a Director holding office for a term expiring at the 2007 annual meeting of the Company’s Shareholders.

“*Class 3 Director*” means a Director holding office for a term expiring at the 2008 annual meeting of the Company’s Shareholders.

“Common Stock” means the Company’s common stock, par value \$0.01 per share, and any other class of common stock of the Company that may be created from time to time, and any securities issued in

respect thereof, or in substitution therefor, in connection with any stock split, dividend or combination, or any reclassification, recapitalization, merger, consolidation, exchange or other similar reorganization.

“Director” means any member of the Board (other than any advisory, honorary or other non-voting member of the Board).

“Exchange Act” shall mean the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the SEC from time to time thereunder (or under any successor statute).

“Fully Diluted” means the number of Voting Securities, after giving effect to the issuance of Voting Securities issuable under all outstanding options, warrants or other rights or securities convertible or exchangeable into Voting Securities.

“Going Private Transaction” means any transaction that would constitute a “Rule 13e-3 transaction” under paragraph (a)(3) of Rule 13e-3 promulgated under the Exchange Act as in effect on the date of this Agreement, without giving effect to the exception set forth in paragraph (g)(2) thereof.

“Group” shall have the meaning assigned to it in Section 13(d)(3) of the Exchange Act.

“Independent Director” shall mean any Director who is or would be an “independent director” with respect to the Company and with respect to F Co Parent pursuant to Section 303A.02 of the New York Stock Exchange Listed Company Manual and Section 10A of the Exchange Act (or any successor provisions).

“Intercompany Agreements” shall mean those agreements listed on *Schedule 1* hereto, as amended in accordance with the terms of the Merger Agreement prior to the Effective Time and thereafter, from time to time in accordance with the terms hereof.

“Ownership Percentage” means, at any time, with respect to any Person, the quotient, expressed as a percentage, of (i) the Total Voting Power of all Voting Securities then Beneficially Owned by such Person and its Affiliates divided by (ii) the Total Voting Power of all Voting Securities then outstanding.

“Person” means a natural person, limited or general partnership, corporation, limited liability company, joint-stock company, trust, unincorporated association, joint venture, or other entity, government or any agency or political subdivision thereof or any Group comprised of two or more of the foregoing, and pronouns have a similarly extended meaning.

“Public Offering” means an offering and sale to the public of any Common Stock pursuant to an effective Registration Statement.

“Registration Rights Agreement” means that certain Registration Rights Agreement in the form attached as Exhibit E to the Merger and to be entered into by the Company and each of the Shareholders as of the Effective Time.

“Registration Statement” means any registration statement of the Company filed with the SEC pursuant to the Securities Act, under which any of the Registrable Shares (as such term is defined in the Registration Right Agreement) are included therein pursuant to the provisions of the Registration Rights Agreement.

“Requisite Independent Directors” shall mean, at any time of determination, a majority of the Independent Directors.

“Sale of the Company” means the consummation of a transaction, whether in a single transaction or in a series of related transactions that are consummated contemporaneously (or consummated pursuant to contemporaneous agreements), with any other Person or Group on an arm’s-length basis other than a Shareholder or any Affiliate of a Shareholder, pursuant to which such party or parties (a) acquire (whether

by merger, stock purchase, recapitalization, reorganization, redemption, issuance of capital stock or otherwise) more than 50% of the Voting Securities, or (b) acquire assets constituting all or substantially all of the assets of the Company and its Subsidiaries on a consolidated basis; *provided, however*, that in no event shall a Sale of the Company be deemed to include any transaction effected for the sole purpose of (i) changing, directly or indirectly, the form of organization or the organizational structure of the Company or any of its Subsidiaries without affecting the Beneficial Ownership or control of the Company, or (ii) contributing stock to entities controlled by the Company.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated by the SEC from time to time thereunder (or under any successor statute).

“Subsidiary” means, with respect to any Person, any corporation or other organization, whether incorporated or unincorporated, (i) of which such Person or any other Subsidiary of such Person is a general partner (excluding partnerships, the general partnership interests of which are held by such Person or any Subsidiary of such Person that do not have a majority of the voting interests in such partnership), or (ii) at least a majority of the securities or other interests of which having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries.

“Total Voting Power” means the total number of votes entitled to be cast by the holders of the outstanding Common Stock and any other securities entitled, in the ordinary course, to vote on matters put before the holders of the Common Stock generally.

“Transfer” means, directly or indirectly, to sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of (by operation of law or otherwise), either voluntarily or involuntarily, or to enter into any contract, option or other arrangement with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of (by operation of law or otherwise), any Voting Securities or any interest in any Voting Securities; *provided, however*, that a merger, consolidation or similar business combination transaction in which F Co Parent is a constituent corporation (or otherwise a party including, for the avoidance of doubt, a transaction pursuant to which a Person acquires all or a portion of F Co Parent’s outstanding Capital Stock, whether by tender or exchange offer, by share exchange, or otherwise) shall not be deemed to be the Transfer of any Voting Securities Beneficially Owned by

F Co Parent or any of its Subsidiaries, provided that the primary purpose of any such transaction is not to avoid the provisions of this Agreement and that the successor or surviving person to such a merger, consolidation or similar business combination transaction, if not F Co Parent, expressly assumes all obligations of F Co Parent under this Agreement. For purposes of this Agreement, the term Transfer shall include the sale of an Affiliate of F Co Parent or F Co Parent's interest in an Affiliate that Beneficially Owns Voting Securities unless such Transfer is in connection with a merger, plan of consolidation or similar business combination transaction referred to in the first proviso of the previous sentence.

"Unaffiliated Shareholder Approval" means (i) in the case of a tender or exchange offer, that a majority of the outstanding shares of Common Stock not Beneficially Owned by any Shareholder or its Affiliates shall have been tendered and not duly withdrawn at the expiration time of such tender or exchange offer, as it may have been theretofore extended, and (ii) in the case of a merger or consolidation, that the holders of a majority of the outstanding shares of Common Stock not Beneficially Owned by any Shareholder or its Affiliates shall have been duly voted in favor of the applicable transaction at a meeting of shareholders duly called and held.

"Voting Securities" means at any time shares of any class of Capital Stock or other securities of the Company which are then entitled to vote generally in the election of Directors and not solely upon the occurrence and during the continuation of certain specified events, and any securities convertible into or exercisable or exchangeable for such shares of Capital Stock.

1.2 Other Defined Terms. The following terms shall have the meanings defined for such terms in the sections set forth below:

<u>Defined Term</u>	<u>Section</u>
Acquisition	5.1(b)(ii)
Competitive Business	5.1(a)
Divestible Competitive Activity	5.1(b)(iii)
GBCC	1.4
Minor Competitive Activity	5.1(b)(iii)
Permitted Competitive Business Activity	5.1(b)(i)
Other Shareholder	4.2(b)(iii)
Separation Date	5.1(a)
Term	5.1(a)

1.3 Interpretation.

- (a) Any reference in this Agreement to gender shall include all genders.
- (b) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article and Section references are to this Agreement unless otherwise specified.
- (c) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.
- (d) Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Merger Agreement.
- (e) The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- (f) Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation".

1.4 Methodology for Calculations. For purposes of calculating the number of outstanding shares of Common Stock or Voting Securities and the number of shares of Common Stock or Voting Securities Beneficially Owned by the Shareholders and their respective Affiliates as of any date, any shares of Common Stock or Voting Securities held in the Company's treasury or belonging to any Subsidiaries of the Company which are not entitled to be voted or counted for purposes of determining the presence of a quorum pursuant to Section 14-2-721 of the Georgia Business Corporation Code or any successor statute (the "GBCC") shall be disregarded.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of the Company. The Company hereby represents and warrants to the Shareholders:

- (a) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia, it has full power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance by it of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action;
- (b) this Agreement has been duly and validly executed and delivered by it and constitutes a legal and binding obligation of the Company, enforceable against it in accordance with its terms; and
- (c) the execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby will not, with or without the giving of notice or lapse of time, or both, (i) violate any provision of law, statute, rule or regulation to which the Company is subject, (ii) violate any order, judgment or decree applicable to the Company, or (iii) conflict with, or result in a breach or default under, any term or condition of the Company's organizational documents or any agreement or instrument to which the Company is a party or by which it is bound.

2.2 **Representations and Warranties of the Shareholders.** Each Shareholder (as to itself only) represents and warrants to the Company:

(a) such Shareholder is a corporation duly organized, validly existing and in good standing under the laws of the State of its state of incorporation, or it is a limited partnership or a limited liability company duly formed, validly existing, and in good standing under the laws of the State of its state of formation, as the case may be, such Shareholder has full power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance by such Shareholder of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate, partnership or limited liability company action of such Shareholder.

(b) this Agreement has been duly and validly executed and delivered by such Shareholder, and this Agreement constitutes a legal and binding obligation of such Shareholder, enforceable against such Shareholder in accordance with its terms; and

(c) the execution, delivery and performance by such Shareholder of this Agreement and the consummation by such Shareholder of the transactions contemplated hereby will not, with or without the giving of notice or lapse of time, or both, (i) violate any provision of law, statute, rule or regulation to which such Shareholder is subject, (ii) violate any order, judgment or decree applicable to such Shareholder, or (iii) conflict with, or result in a breach or default under, any term or condition of any agreement or other instrument to which such Shareholder is a party or by which such Shareholder is bound.

ARTICLE 3 COVENANTS REGARDING OWNERSHIP

3.1 **Standstill.**

(a) Each Shareholder covenants and agrees with the Company that, except as provided in paragraph (b) below or *Section 3.2* hereof, it shall not, and shall not permit any of its

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Affiliates to, directly or indirectly, alone or in concert with others, acquire, offer or propose to acquire or agree to acquire, whether by purchase, tender or exchange offer, through the acquisition of control of another Person (whether by way of merger, consolidation or otherwise), by joining a general or limited partnership, syndicate or other Group or otherwise, the Beneficial Ownership of any additional Voting Securities, or take any other action as a shareholder or otherwise, if such acquisition or action (including the repurchase or issuance of Capital Stock by the Company) would result in the Shareholders, in the aggregate, Beneficially Owning Voting Securities representing more than 75% of the Fully Diluted Voting Securities (the "Ownership Cap").

(b) (i) If at any time the Shareholders and their respective Affiliates Beneficially Own in the aggregate Voting Securities representing more than the Ownership Cap, then the Shareholders whose purchase of Voting Securities causes the Ownership Cap to be exceeded shall, as soon as is reasonably practicable, but in no event longer than 90 days after the Ownership Percentage of the Shareholders and their respective Affiliates first exceeds the Ownership Cap (but in no manner that would require any Shareholder or any such Affiliate thereof to incur liability under Section 16(b) of the Exchange Act) Transfer (in any manner permitted by *Section 4.2(a)* and in compliance with *Section 4.1(b)*, regardless of whether such Transfer occurs prior to or after the first anniversary of the Closing) a number of Voting Securities sufficient to reduce the amount of Voting Securities Beneficially Owned in the aggregate by the Shareholders and their Affiliates to an amount representing not greater than the Ownership Cap.

(ii) Notwithstanding any other provision of this Agreement, in no event may any Shareholder or any of its Affiliates, directly or indirectly including through any agreement or arrangement, exercise any voting rights, during the term of this Agreement, in respect of any Voting Securities Beneficially Owned by the Shareholders and their respective Affiliates representing in excess of the Ownership Cap.

(c) Any additional Voting Securities acquired and Beneficially Owned by the Shareholders or any of their respective Affiliates following the Closing shall be subject to the restrictions contained in this Agreement as fully as if such Voting Securities were acquired by such Shareholder at the Closing pursuant to the Merger Agreement.

(d) For purposes of this Agreement, all determinations of the amount of outstanding Voting Securities shall be based on information set forth in the most recent quarterly or annual report, and any current report subsequent thereto, filed by the Company with the SEC, unless the Company shall have updated such information by delivery of written notice to the Shareholders.

3.2 **Going Private Transactions.**

(a) F Co Parent shall, and shall cause its Affiliates to, refrain from proposing, initiating or participating in any Going Private Transaction unless such Going Private Transaction (i) involves the acquisition of or offer to acquire 100% of the Common Stock not owned by the Shareholders and their respective Affiliates (and, in the case of a Going Private Transaction to be effected by means of a tender or exchange offer, includes a commitment by the Shareholders or any such Affiliate to promptly consummate a short-form merger to acquire any remaining shares of Common Stock at the same price in the event it obtains pursuant to such tender or exchange offer such level of ownership of such classes of Capital Stock that would be required to effect a merger pursuant to Section 14-2-1104 of the GBCC or any successor provision) and (ii) is conducted in compliance with this *Section 3.2*.

(b) Prior to the first anniversary of the Closing, F Co Parent shall, and shall cause its Affiliates to, refrain from proposing or initiating any Going Private Transaction unless invited to

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do so by the Requisite Independent Directors. Any Going Private Transaction effected during this period shall also be subject to the requirements of *Section 3.2(c)*.

(c) From and after the first anniversary of the Closing, F Co Parent or any of its Affiliates may propose, initiate or effect a Going Private Transaction, *provided* that such Going Private Transaction is subject to and conditioned upon the receipt of Unaffiliated Shareholder

**ARTICLE 4
TRANSFER RESTRICTIONS**

4.1 General Transfer Restrictions.

(a) The right of each Shareholder and its Affiliates to Transfer any Voting Securities is subject to the restrictions set forth in this *Article 4*, and no Transfer of Voting Securities by a Shareholder or any of its Affiliates may be effected except in compliance with this *Article 4*. Any attempted Transfer in violation of this Agreement shall be of no effect and null and void, regardless of whether the purported transferee has any actual or constructive knowledge of the Transfer restrictions set forth in this Agreement, and shall not be recorded on the share transfer books of the Company.

(b) Each of the Shareholders, severally and not jointly, acknowledge and agree:

(i) such Shareholder will not offer, sell, or otherwise dispose of any shares of Common Stock except in compliance with the Securities Act;

(ii) such Shareholder will not sell, transfer or otherwise dispose of any shares of Common Stock unless (A) such sale, transfer or other disposition is within the limitations of and in compliance with Rule 144 promulgated by the SEC under the Securities Act and the Shareholder furnishes the Company with reasonable proof of compliance with such Rule, (B) in the opinion of counsel, reasonably satisfactory to the Company and its counsel, some other exemption from registration under the Securities Act is available with respect to any such proposed sale, transfer, or other disposition of Common Stock or (C) the offer and sale of Common Stock is registered under the Securities Act.

4.2 Restrictions on Transfer.

(a) During an initial period of (i) one year following the Closing with respect to F Co Parent and (ii) 180 days following the Closing with respect to all Shareholders other than F Co Parent (each, an "Other Shareholder"), such Shareholder shall not Transfer or agree to Transfer, or permit any of its Affiliates to Transfer or agree to Transfer, directly or indirectly, any Voting Securities; *provided, however*, that the foregoing restrictions shall not be applicable to Transfers:

(A) by a Shareholder or any of its Affiliates to the Company pursuant to *Section 3.1(b)*;

(B) to an Affiliate of a Shareholder which agrees in writing with the Company to be bound by this Agreement as if it were an initial signatory hereto;

(C) by any Other Shareholder from and after the 90th day following the Closing through the 180th day following the Closing, of up to 50% of the Voting Securities owned by such Other Shareholder immediately after the Effective Time;

(D) with the Company's prior written consent (approved by the Requisite Independent Directors) or at the request of the Requisite Independent Directors, *provided, however*, that any Transfer by F Co Parent or any of its Affiliates pursuant to this clause (iv) shall also be subject to and conditioned on the receipt of Unaffiliated Shareholder Approval; or

(E) by any Shareholder pursuant to a Sale of the Company; *provided, however*, that in no event shall a Sale of the Company for such purposes be deemed to include a Transfer by F Co Parent or its Affiliates of all or any portion of the Voting Securities held by F Co Parent and its Affiliates unless undertaken pursuant to a transaction or series of related transactions that also involve the Transfer of at least 66.667% of the Voting Securities not Beneficially Owned by F Co Parent and its Affiliates.

(b) Each Shareholder (other than Evercore) agrees to notify F Co Parent of its intentions to Transfer a substantial block of Voting Securities in compliance with this Agreement, and if requested by F Co Parent, such Shareholder will negotiate terms upon which such Shareholder would Transfer such substantial block (or a portion thereof) to F Co Parent, but in no event shall any Shareholder be obligated to Transfer any such Voting Securities to F Co Parent or negotiate with F Co Parent with respect to such transfer for a period longer than 3 days. Any Shareholder's obligation to negotiate with F Co Parent under this Section 4.2(b) shall be conditioned upon F Co Parent's agreement to hold as confidential and not to publicly disclose, prior to the closing of a Transfer of the subject Voting Securities, any such notification or negotiations. No Shareholder shall be obligated to notify F Co Parent of its intentions to transfer Voting Securities if such Shareholder reasonably believes, after consultation with legal counsel, that F Co Parent may have an obligation under applicable law to disclose, prior to the closing of the Transfer of the subject Voting Securities, the existence or contents of any notification hereunder. Any Transfer by a Shareholder to its partners as a distribution in kind shall not be subject to the requirements of this *Section 4.2(b)*.

4.3 Legend on Securities.

(a) Each certificate representing shares of Common Stock Beneficially Owned by a Shareholder or its Affiliates and subject to the terms of this Agreement shall bear the following legends on the face thereof:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND CERTAIN OTHER LIMITATIONS SET FORTH IN A CERTAIN SHAREHOLDERS AGREEMENT DATED AS OF SEPTEMBER 14, 2005, AMONG CERTEGY INC. (THE "COMPANY") AND CERTAIN OF ITS SHAREHOLDERS, AS THE SAME MAY BE AMENDED FROM TIME TO TIME (THE "AGREEMENT"), COPIES OF WHICH AGREEMENT ARE ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY."

"THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED OR SOLD UNLESS IT HAS BEEN REGISTERED UNDER THE SECURITIES ACT OR UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE (AND, IN SUCH CASE, IF REQUESTED BY THE COMPANY, AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY SHALL HAVE BEEN DELIVERED TO THE COMPANY TO THE EFFECT THAT SUCH OFFER OR SALE IS NOT REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT)."

(b) Upon any acquisition by a Shareholder or any of its Affiliates of additional shares of Common Stock, such Shareholder shall, or shall cause such Affiliate to, submit the certificates representing such shares of Common Stock to the Company so that the legend required by this Section 4.3 may be placed thereon (if not so endorsed upon issuance).

(c) The Company may make a notation on its records or give instructions to any transfer agents or registrars for the Common Stock in order to implement the restrictions on Transfer set forth in this Agreement.

(d) In connection with any Transfer of shares of Common Stock, the transferor shall provide the Company with such customary certificates, opinions and other documents as the Company may reasonably request to assure that such Transfer complies fully with this Agreement and with applicable securities and other laws.

ARTICLE 5 GOVERNANCE

5.1 *Non-Competition.*

(a) For a period (the “*Term*”) commencing on the date hereof and continuing until the first anniversary of the date (the “*Separation Date*”) F Co Parent and its Affiliates cease to Beneficially Own at least 30% of the outstanding Voting Securities of the Company, F Co Parent agrees that it shall not, and shall cause its Affiliates not to, directly or indirectly, own, manage, operate, control or participate in the ownership, management, operation or control, other than their ownership, operation and control of the Company and its subsidiaries, any business, whether in corporate, proprietorship or partnership form or otherwise, engaged in a Competitive Business. For purposes of this Section 5.1, “*Competitive Business*” shall mean:

(i) providing (A) retail bank core processing systems, (B) customer channel-solutions (online-retail and commercial, ATM, branch, teller and call center), (C) consumer and commercial lending and servicing systems, including mortgage loan origination and servicing systems, and (D) data center outsourcing services to credit unions, community banks, thrifts, data centers, banks and other financial institutions;

(ii) providing real estate tax, credit, flood, default and appraisal services and multiple listing software and services to financial institutions and loan servicers; or

(iii) credit card and debit card processing and back-office support services to banks, credit unions, retailers and other third-party businesses and check cashing and check risk management and related processing products and services to businesses.

(b) Notwithstanding the foregoing, nothing contained in this Agreement shall prevent F Co Parent from:

(i) engaging in any of the activities set forth on *Schedule 2* hereto (“*Permitted Competitive Business Activity*”);

(ii) acquiring control of a business engaged in a Competitive Business (an “*Acquisition*”) and continuing to conduct such Competitive Business if, and only if, F Co Parent first presents the opportunity to make the Acquisition to the Board and the Requisite Independent Directors disclaim the Company’s interest in such opportunity after F Co Parent’s disclosure of all material facts concerning the opportunity then known to F Co Parent; *provided that*, F Co Parent consummates the Acquisition on the same terms presented to the Board. Notwithstanding the foregoing, nothing contained in this clause (b)(ii) shall permit F Co Parent to conduct any activities that constitute a

Competitive Business through such acquired entity if such type of activities were not conducted by the acquired entity at the time of the Acquisition;

(iii) acquiring control of a business (A) which earns less than 10% of its annual revenues from engaging in a Competitive Business (“*Minor Competitive Activity*”); provided, however that such Minor Competitive Activity shall comprise less than 10% of the annual revenues of the acquired business during the entire Term, or (B) which earns more than 10%, but less than 50% of its annual revenues from engaging in a Competitive Business (“*Divestible Competitive Activity*”); *provided, however* that such Divestible Competitive Activity shall be offered to the Company within thirty (30) days after closing the acquisition of such Divestible Competitive Activity at a price equal to that paid by the F Co Parent or its Affiliate or, if such price was not separately determined, at fair market value as determined by mutual consent of the parties or a mutually agreed upon appraisal process; or

(iv) being a passive owner of less than five percent (5%) of the outstanding stock of a corporation which is publicly traded and is engaged in a Competitive Business.

5.2 *Intercompany Agreements and Related Matters.*

(a) No material provision of any of the Intercompany Agreements or any other contract or arrangement which involves payments by any party of more than \$250,000 annually in the aggregate, between the Company and any of its Subsidiaries on the one hand and F Co Parent or its Affiliates on the other, shall be amended, waived or otherwise modified in a manner adverse to the Company unless approved in advance by the Requisite Independent Directors. No obligation or liability of F Co Parent or any of its Affiliates to the Company or any of its Subsidiaries in excess of \$250,000 shall be waived, released, compromised, or failed to be enforced by the Company and its Subsidiaries unless such waiver, release, compromise or failure is approved in advance by the Requisite Independent Directors

(b) Neither the Company nor any of its Subsidiaries shall be permitted to enter into or be a party to any transaction, contract or arrangement which involves payments by any party of more than \$250,000 annually in the aggregate, with F Co Parent or any Subsidiary thereof, or any director, officer or employee of, or any “associate” (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such person, except for transactions contemplated by this Agreement, the Intercompany Agreements, and the Merger Agreement, unless approved in advance by the Requisite Independent Directors.

5.3 Approval Rights. Until F Co Parent and its Affiliates no longer Beneficially Own Voting Securities representing at least 30% of the Total Voting Power, the Company shall not take any of the following actions without the consent of F Co Parent: (i) hiring and firing the Chief Executive Officer or Chief Financial Officer of the Company; and (ii) approving the annual operating and capital expenditure budget of the Company.

5.4 Composition of the Board.

(a) Effective as of the Effective Time, the authorized number of Directors comprising the Board shall initially be 10, divided into three classes as provided in the Charter, consisting of:

(i) three (3) individuals selected by the Board prior to the filing date of the definitive Proxy Statement (as such term is defined in the Merger Agreement) to occupy one seat in each of the three classes (the “C Co Directors”);

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(ii) the individual then serving as the Chief Executive Officer of the Company, for so long as such individual holds such position (who shall be a Class 2 Director);

(iii) four (4) individuals designated by F Co Parent prior to the expected filing date of the definitive Proxy Statement, one of whom shall be William P. Foley, II (the “F Co Parent Directors”), with Mr. Foley and one (1) other F Co Parent Director to be Class 1 Directors, one (1) F Co Parent Director to be a Class 2 Director, and one (1) F Co Parent Director to be a Class 3 Director;

(iv) one (1) individual designated by Thomas H. Lee Parallel Fund V, L.P. (the “THL Director”), (who shall be a Class 1 Director), who shall initially be Thomas M. Hagerty and who shall be such director so long as he is a principal of THL (or equivalent or higher ranking employee of THL), provided that any director replacing the initial THL Director shall always be an individual who is a principal of THL (or equivalent or higher ranking employee of THL); and

(v) one (1) individual designated by TPG Partners IV, L.P. (the “TPG Director”), (who shall be a Class 3 Director), who shall initially be Marshall Haines and who shall be such director so long as he is a principal of TPG (or equivalent or higher ranking employee of TPG), provided that any director replacing the initial TPG Directors shall always be an individual who is a principal of TPG (or equivalent or higher ranking employee of TPG).

(b) The Company and F Co Parent shall each provide written notice to the other, not less than 5 Business Days prior to the expected filing date of the definitive Proxy Statement of the individuals who shall be designated as the initial three C Co Directors and the four F Co Parent Directors pursuant to *Section 5.4(a)*, provided, however, that if either the Company or F Co Parent has not selected their respective nominees by such date, then notwithstanding the foregoing, the Company or F Co Parent, as the case may be, shall instead provide such notice at least 5 Business Days prior to the expected date of the Closing (or if such period of notice is not practicable under the circumstances because an individual who has been so designated is no longer available for such service, such prior notice as is practicable), and provided, further that designation of the initial C Co Directors shall be subject to the prior written consent of F Co Parent, which consent shall not be unreasonably withheld.

(c) Except as provided in *Section 5.4(d)*, the size and composition of the Board may thereafter be changed as permitted by and in accordance with applicable law and the Charter and the Bylaws; provided, however, that none of F Co Parent or its Affiliates shall vote its shares or otherwise act to remove any person serving as a C Co Director prior to expiration of such Director’s term other than for cause.

(d) Following the Effective Time, the Board shall include (i) the individual then serving as the Chief Executive Officer of the Company, for so long as such individual holds such position, (ii) the F Co Parent Directors, for so long as F Co Parent remains a party to this Agreement; (iii) the THL Director, for so long as THL owns at least one-third (33%) of the Voting Securities held by it immediately after the Effective Time (subject to adjustment for stock splits, combinations and similar events); (iv) the TPG Director, for so long as TPG owns at least one-third (33%) of the Voting Securities held by it immediately after the Effective Time (subject to adjustment for stock splits, combinations and similar events); and (v) such number of Independent Directors as is necessary to have in office at all times not less than three (3) Independent Directors.

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(e) Subject to subsection (d) above and until such time as such Committees must be comprised entirely of Independent Directors in accordance with the listing standards of the New York Stock Exchange, the Compensation Committee of the Board shall include one of either the THL Director and the TPG Director. The THL Director and TPG Director shall rotate their position on the Compensation Committee each year.

(f) No party shall designate a Director (i) who has been removed for cause from the Board, (ii) has ever been convicted of a felony, or (iii) is or, within 10 years prior to the date of designation, has been subject to any permanent injunction for violation of any federal or state securities law.

5.5 Voting Agreements.

(a) Each Shareholder (other than Evercore) hereby agrees that it will vote, or cause to be voted, all Voting Securities over which such Person has the power to vote or direct the voting (and which are entitled to vote on such matter), and will take all other necessary or desirable actions within such Person’s control in favor of the election of each candidate designated or nominated for election pursuant to *Section 5.4*. If at any time any such Director ceases to serve on the Board (whether due to resignation, removal or otherwise), the Company shall nominate and the Shareholders shall vote in favor of a successor to fill the vacancy created thereby on the terms and subject to the conditions of *Section 5.4*. Each Shareholder (other than Evercore) agrees to vote, or cause to be voted, all Voting Securities over which such Person has the power to vote or direct the voting, and shall take all such other actions as shall be necessary or desirable to cause the designated successor to be elected to fill such vacancy.

(b) Nothing in this Agreement shall be construed to impair any rights that the shareholders of the Company may have to remove any Director for cause under applicable law, the Charter or Bylaws. No such removal of an individual designated pursuant to *Section 5.4* for cause shall affect any of the Shareholders’ rights to designate a different individual pursuant to *Section 5.4* to fill the position from which such individual was removed.

5.6 NYSE Listing. Except following the completion of a Going Private Transaction conducted in accordance with *Section 3.2* or with the prior consent of the Requisite Independent Directors, F Co Parent will not take or cause the Company to take any action to delist, or that would reasonably be expected to result in the delisting of, the Common Stock from a national securities exchange; *provided* that nothing in this *Section 5.5* shall require F Co Parent or any of its Affiliates to take any affirmative action to prevent the Common Stock from being delisted by any such national securities exchange in the event that the Common Stock ceases to meet the applicable listing standards of such national securities exchange.

**ARTICLE 6
MISCELLANEOUS**

6.1 Notices. Any notice, direction or other communication to be given under this Agreement shall be in writing and given by delivering it or sending it by facsimile or other similar form of recorded communication addressed:

If to the Company (prior to the Effective Time):

Certegy Inc.
100 Second Avenue South
Suite 1100S
St. Petersburg, FL 33701
Attention: Walter M. Korchun
Facsimile: (727) 227-8558

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with copies to:

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: W. Stanley Blackburn, Esq.
Bruce D. Wanamaker, Esq.
Facsimile: (404) 541-3132

and

Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-7566
Attention Bruce S. Wilson
Facsimile: (202) 778-5400

and

Covington & Burling
1330 Avenue of the Americas
New York, NY 10019
Attention Stephen A. Infante
Facsimile: (646) 441-9039

If to the Company (after the Effective Time):

Fidelity National Information Services, Inc
601 Riverside Avenue
Jacksonville, FL 32204
Attention: Christopher Rose
Facsimile No.: (904) 357 1026

with copies to:

Weil, Gotshal & Manges LLP
100 Federal Street
Boston, MA 02110
Attention: James Westra, Esq.
Marilyn French, Esq.
Facsimile: (617) 772-8333

Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, FL 32204
Attention: Christopher Rose
Facsimile: (904) 357 1026

If to F Co Parent:

Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, FL 32204
Attention: Christopher Rose
Facsimile: (904) 357-1026

If to THL:

Thomas H. Lee Partners, L.P.
100 Federal Street
Boston, MA 02110
Attention: Thomas Hagerty and Seth Lawry
Telephone: (617) 227-1050
Facsimile: (617) 227-3514

If to TPG:

Texas Pacific Group
301 Commerce Street
Suite 3300
Fort Worth, TX 76102
Attention: David Spuria, Esq.
Telephone: (817) 871-4000
Facsimile: (817) 871-4088

If to Evercore:

Evercore Partners
55 East 52nd Street, 43rd Floor
New York, NY 10055
Attn: Neeraj Mital
Telephone: (212) 857-3197
Facsimile: (212) 857-3152

If for the Company or any of the Shareholders, with copies to:

Weil, Gotshal & Manges LLP
100 Federal Street
Boston, MA 02110
Attention: James Westra, Esq.
Marilyn French, Esq.
Facsimile: (617) 772-8333

If for TPG, with copies to

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Attention: David Leinwand, Esq.
Facsimile: (212) 225-3999

If for Evercore, with copies to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, NY 10017
Attention: Alan Schwartz
Facsimile: (212) 455-2502

Any such communication shall be deemed to have been validly and effectively given (i) if personally delivered, on the date of such delivery if such date is a business day and such delivery was made prior to

4:00 p.m. (New York time) and otherwise on the next business day, or (ii) if transmitted by facsimile or similar means of recorded communication on the business day following the date of transmission. Any party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

6.2 Amendments; Termination. This Agreement may be amended, supplemented or otherwise modified only by written agreement of each of the following that are then parties to this Agreement: the Company (acting with the approval of the Requisite Independent Directors), F Co Parent, THL and TPG. Each party hereto shall cease to be a party to this Agreement at such time as such party owns less than 10% of the number of shares of Common Stock of the Company that such party owns as of the date of the Closing and set forth on *Schedule 3* hereto (as adjusted for any stock splits, stock dividends or equivalent transactions). Except as otherwise provided in this Agreement, this Agreement and the rights and obligations of the parties hereunder shall terminate upon the first date on which F Co Parent and its Affiliates Beneficially Own either (i) Voting Securities representing less than 10% of the Total Voting Power, or (ii) 90% or more of each class of Capital Stock of which ownership would be required in order to effect a merger pursuant to Section 14-2-1104 of the GBCC or any successor provision (acquired in compliance with the terms of this Agreement). This Agreement will terminate in respect of all Shareholders upon the consummation of a Going Private Transaction or Sale of the Company. Nothing in this *Section 6.2* shall be deemed to release any party from any liability for any willful and material breach of this Agreement occurring prior to the termination hereof or to impair the right of any party to compel specific performance by any other party of its obligations under this Agreement.

6.3 Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar) nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver. No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right of the exercise of any other right. All actions and decisions of the Company relating to the enforcement of this Agreement shall be exercised by or under the authority of the Requisite Independent Directors.

6.4 Successors and Assigns. Neither this Agreement nor any of the rights or obligations under this Agreement is assignable or transferable by any party without the prior written consent of the other parties. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. For this purpose, a successor includes any person that acquires control of all or substantially all the assets of one of the parties.

6.5 Severability. In case any provision in this Agreement shall be held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and the remaining provisions shall not in any way be affected or impaired thereby.

6.6 Governing Law. This Agreement is governed by and interpreted and enforced in accordance with the laws of the State of New York without regards to principles of conflicts of law State (other than those provisions set forth herein that are required to be governed by the GBCC). Each party hereto irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New York with respect to any matters arising hereunder or relating hereto.

6.7 Counterparts. This Agreement may be executed in any number of counterparts and all such counterparts taken together are deemed to constitute one and the same instrument.

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6.8 Entire Agreement. Except as otherwise expressly set forth herein, this Agreement and the Merger Agreement, together with the several agreements and other documents and instruments referred to herein or therein or annexed hereto or thereto, embody the complete agreement and understanding among the parties hereto with respect to the subject matter hereof and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, that may have related to the subject matter hereof in any way. Without limiting the generality of the foregoing, to the extent that any of the terms hereof are inconsistent with the rights or obligations of the Shareholders under any other agreement with the Company, the terms of this Agreement shall govern.

6.9 Estoppel. No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement.

6.10 Conflicting Agreements. Each party represents and warrants that it has not granted and is not a party to any proxy, voting trust or other agreement that is inconsistent with or conflicts with any provision of this Agreement.

6.11 Effectiveness. Except for the provisions of Sections 5.4(a)(i), 5.4(a)(iii) and 5.4(b) (relating to the designation of the individuals to serve as the initial C Co Directors and F Co Parent Directors), which are in full force and effect as of the date hereof, this Agreement shall become effective upon the Closing and prior thereto shall be of no force or effect. If the Merger Agreement shall be terminated in accordance with its terms prior to the Closing, this Agreement (including the provisions of Section 5.4) shall automatically be of no force or effect.

* * * * *

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IN WITNESS WHEREOF, the parties hereto have executed this Shareholders Agreement on the day and year first above written.

COMPANY:

CERTEGY INC.

By: /s/ LEE A. KENNEDY
Name: Lee A. Kennedy
Title: *Chairman and Chief Executive Officer*

SHAREHOLDERS:

FIDELITY NATIONAL FINANCIAL, INC.

By: /s/ WILLIAM P. FOLEY, II
Name: William P. Foley, II
Title: *Chairman and Chief Executive Officer*

THL FNIS HOLDINGS, LLC

By: THL Equity Advisors V, LLC, its manager
By: Thomas H. Lee Partners, L.P., its sole member
By: Thomas H. Lee Advisors LLC, its general partner

By: /s/ THOMAS H. LEE
Name: Thomas H. Lee
Title: *Managing Director*

THOMAS H. LEE CAYMAN FUND V, L.P.

By: THL Equity Advisors V, LLC, its general partner
By: Thomas H. Lee Partners, L.P., its sole member
By: Thomas H. Lee Advisors LLC, its general partner

By: /s/ THOMAS H. LEE
Name: Thomas H. Lee
Title: *Managing Director*

THOMAS H. LEE INVESTORS LIMITED PARTNERSHIP

By: THL Investment Management Corp., its general partner

By: /s/ THOMAS H. LEE
Name: Thomas H. Lee
Title: *Chief Executive Officer*

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PUTNAM INVESTMENTS EMPLOYEES' SECURITIES COMPANY I
LLC

By: Putnam Investment Holdings, LLC, its managing member
By: Putnam Investments, LLC, its managing member

By: /s/ ROBERT BURNS
Name: Robert Burns
Title: *Managing Director*

PUTNAM INVESTMENTS EMPLOYEES' SECURITIES COMPANY II
LLC

By: Putnam Investment Holdings, LLC, its managing member
By: Putnam Investments, LLC, its managing member

By: /s/ ROBERT BURNS
Name: Robert Burns
Title: *Managing Director*

PUTNAM INVESTMENT HOLDINGS, LLC

By: Putnam Investments, LLC, its managing member

By: /s/ ROBERT BURNS
Name: Robert Burns
Title: *Managing Director*

TPG FNIS HOLDINGS, LLC

By: TPG GenPar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

TPG PARALLEL III, L.P.

By: TPG GenPar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

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TPG INVESTORS III, L.P.

By: TPG GenPar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

FOF PARTNERS III, L.P.

By: TPG GenPar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

FOF PARTNERS III-B, L.P.

By: TPG GenPar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

TPG DUTCH PARALLEL III, C.V.

By: TPG GenPar Dutch, L.L.C.
By: TPG Genpar III, L.P.
By: TPG Advisors III, Inc.

By: /s/ DAVID A. SPURIA
Name: David A. Spuria
Title: *Vice President*

EVERCORE METC CAPITAL PARTNERS II L.P.

By: Evercore Partners II L.L.C., its General Partner

By: /s/ KATHLEEN G. REILAND
Name: Kathleen G. Reiland
Title: *Senior Managing Director*

AMENDMENT TO RIGHTS AGREEMENT

THIS AMENDMENT TO RIGHTS AGREEMENT (this "Amendment"), dated as of September 14, 2005, by and between Certegy Inc, a Georgia corporation (the "Company"), and SunTrust Bank, a Georgia banking corporation, as Rights Agent (the "Rights Agent").

RECITALS

WHEREAS, the Company and the Rights Agent are parties to a Rights Agreement, dated as of June 29, 2001 (the "Rights Agreement"; all capitalized terms used herein but not defined shall have the meaning given such terms in the Rights Agreement);

WHEREAS, pursuant to Section 26 of the Rights Agreement, the Company may from time to time supplement or amend the Rights Agreement in accordance with the provisions of Section 26 thereof;

WHEREAS, the Company proposes to enter into that certain Agreement and Plan of Merger, dated as of the date hereof (the "Merger Agreement"), among C Co Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of the Company ("Merger Co"), Fidelity National Information Services, Inc., a Delaware corporation ("F Co") and the Company;

WHEREAS, the Board of Directors of the Company has determined, in connection with its contemplation of the Merger Agreement and the transactions contemplated thereby, that it is necessary and desirable to amend the Rights Agreement to exempt the Merger Agreement and the transactions contemplated thereby from the application of the Rights Agreement as set forth in this Amendment;

WHEREAS, there has not been a Distribution Date and the Company desires to amend the Rights Agreement in certain respects as set forth herein;

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

1. **Amendment to Definition of "Acquiring Person"**. The definition of "Acquiring Person" in Section 1(a) of the Rights Agreement is hereby amended and supplemented by adding the following sentence after the last sentence thereof:

"Notwithstanding anything in this Agreement to the contrary, no Person shall be or become an Acquiring Person, by virtue of (i) the approval, adoption, execution and delivery or amendment of that certain Agreement and Plan of Merger, dated September 14, 2005, among the Company, C Co Merger Sub, LLC, a Delaware limited liability company and a wholly-owned subsidiary of the Company ("Merger Co"), and Fidelity National Information Services, Inc., a Delaware corporation ("F CO") (as the same may be amended from time to time, the "Merger Agreement") or the approval, adoption, or

execution and delivery of any amendment thereof, (ii) the consummation of the merger of F Co with and into Merger Co and the issuance of Common Shares in connection therewith, or (iii) the consummation of any other transaction contemplated by the Merger Agreement (such approval, adoption, execution and delivery, or consummation being referred to herein as the "Permitted Events")."

2. **Amendment to Definition of "Distribution Date"**. The definition of "Distribution Date" in Section 1(h) of the Rights Agreement is hereby amended and supplemented by adding the following sentence after the last sentence thereof:

"Notwithstanding anything in this Agreement to the contrary, a Distribution Date shall not occur or be deemed to occur as a result of any Permitted Event."

3. **Amendment to Definition of "Expiration Date"**. The definition of "Expiration Date" in Section 1(j) of the Rights Agreement is hereby amended and restated in its entirety to read as follows:

"Expiration Date" shall mean the earliest of (i) the Close of Business on the Final Expiration Date, (ii) the time at which the Rights are redeemed as provided in Section 23 hereof, (iii) the time at which all exercisable Rights are exchanged as provided in Section 27 hereof, and (iv) the Effective Time (as defined in the Merger Agreement)."

4. **Amendment to Definition of "Share Acquisition Date"**. The definition of "Share Acquisition Date" in Section 1(x) of the Rights Agreement is hereby amended and supplemented by adding the following sentence after the last sentence thereof:

"Notwithstanding anything in this Agreement to the contrary, a Share Acquisition Date shall not occur or be deemed to occur as a result of any Permitted Event."

5. **Amendment to Definition of "Triggering Event"**. The definition of "Triggering Event" in Section 1(bb) of the Rights Agreement is hereby amended and supplemented by adding the following sentence after the last sentence thereof:

"Notwithstanding anything in this Agreement to the contrary, a Triggering Event shall not occur or be deemed to occur as a result of any Permitted Event."

6. **Termination of Merger Agreement**. If for any reason the Merger Agreement is terminated and the Merger is abandoned, then this Amendment shall be of no further force and effect and the Rights Agreement shall remain exactly the same as it existed immediately prior to execution of this Amendment.

7. **Rights Agreement as Amended; Effectiveness**. The term "Agreement" as used in the Rights Agreement shall be deemed to refer to the Rights Agreement as amended hereby. The foregoing amendments shall be effective as of the date hereof and, as amended hereby, the Rights Agreement

shall remain in full force and effect, and in all respects not inconsistent with the terms and provisions of this Amendment, the Rights Agreement is hereby ratified, adopted, approved and confirmed. In executing and delivering this Amendment, the Rights Agent shall be

entitled to all the privileges and immunities afforded to the Rights Agent under the terms and conditions of the Rights Agreement.

8. Governing Law. This Amendment shall be deemed to be a contract made under the laws of the State of Georgia and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts made and to be performed entirely within such State.

9. Miscellaneous. Descriptive headings of the several Sections of this Amendment are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof. If any term, provision, covenant or restriction of this Amendment is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Amendment, and of the Rights Agreement, shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The Rights Agent and the Company hereby waive any notice requirement under the Rights Agreement pertaining to the matters covered by this Amendment.

10. Counterparts. This Amendment may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

[Signature page follows]

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

CERTEGY INC.

By: /s/ Walter M. Korchun
Name: Walter M. Korchun
Title: Executive Vice President, General Counsel and Secretary

SUNTRUST BANK

By: /s/ Letitia Radford
Name: Letitia Radford
Title: Vice President

COMMITMENT AGREEMENT

COMMITMENT AGREEMENT dated as of September 14, 2005 (this "Agreement") among Certegy, Inc., a Georgia corporation ("C Co") and the persons listed on Schedule A hereto (each, a "Stockholder" and, collectively, the "Stockholders").

WHEREAS, C Co, C Co Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of C Co ("Merger Co"), and Fidelity National Information Services, Inc., a Delaware corporation ("F Co") propose to enter into an Agreement and Plan of Merger dated as of the date hereof (as the same may be amended or supplemented, the "Merger Agreement"; capitalized terms used but not defined herein shall have the meanings set forth in the Merger Agreement);

WHEREAS each Stockholder owns the number of shares of F Co Common Stock set forth opposite its name on Schedule A hereto (such shares of F Co Common Stock, together with any other shares of capital stock of F Co acquired by such Stockholder after the date hereof and during the term of this Agreement, being collectively referred to herein as the "Subject Shares" of such Stockholder); and

WHEREAS, as a condition to its willingness to enter into the Merger Agreement, C Co has requested that each Stockholder enter into this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. Representations and Warranties of Each Stockholder. Each Stockholder hereby, severally and not jointly, represents and warrants to C Co as of the date hereof in respect of himself, herself or itself as follows:

(a) Organization; Authority; Execution and Delivery; No Conflicts; Enforceability. The Stockholder is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized. The Stockholder has all requisite power and authority to execute and deliver this Agreement and the written consent in the form attached as Exhibit J to the Merger Agreement (the "Stockholder Consent") and to perform its obligations hereunder and comply with the terms hereof. The execution and delivery by the Stockholder of this Agreement and its Stockholder Consent and the performance of its obligations hereunder and compliance with the terms hereof have been duly authorized by all necessary action on the part of the Stockholder. The Stockholder has duly executed and delivered this Agreement, and this Agreement constitutes the legal, valid and binding obligation of the Stockholder, enforceable against the Stockholder in accordance with its terms. The execution and delivery by the Stockholder of this Agreement do not, and the execution and delivery by the Stockholder of its Stockholder Consent and the performance of its obligations hereunder and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or loss of a material benefit under, or result in the creation of any Lien (other than Liens created pursuant to this Agreement) upon any of the assets of the Stockholder under, any provision of (i) any organizational documents of the Stockholder, (ii) any

Contract to which the Stockholder is a party or by which assets of the Stockholder are bound or (iii) subject to the filings and other matters referred to in the next sentence, any provision of any statute, law, ordinance, regulation, rule, code, executive order, judgment, injunction, decree or other order ("Law") applicable to the Stockholder or the assets of the Stockholder, other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not materially impaired or delayed, and are not reasonably likely to materially impair or delay, the Stockholder's ability to perform its obligations hereunder or comply with the terms hereof. No Consent of, or registration, declaration or filing with, any Governmental Authority is required to be obtained or made by or with respect to the Stockholder in connection with the execution, delivery and performance of this Agreement or the execution and delivery of its Stockholder Consent or the performance of its obligations hereunder or the compliance with the terms hereof other than (x) compliance with and filings under the HSR Act, (y) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement and (z) such other Consents, registrations, declarations or filings that are contemplated by the Merger Agreement or the failure of which to obtain or make are not, individually or in the aggregate, reasonably likely to materially impair or delay the Stockholder's ability to perform its obligations hereunder or comply with the terms hereof.

(b) The Subject Shares. The Stockholder is the record and beneficial owner of, and has good and marketable title to, the Subject Shares set forth opposite its name on Schedule A attached hereto, free and clear of any Liens (other than Liens created pursuant to the terms of this Agreement or arising under federal or state securities Laws). The Stockholder does not own, of record or beneficially, any shares of capital stock of F Co other than the Subject Shares set forth opposite its name on Schedule A attached hereto. The Stockholder has the sole right to vote such Subject Shares, none of such Subject Shares is subject to any voting trust or other agreement, arrangement or restriction with respect to the voting or the Transfer (as defined below) of such Subject Shares, except as contemplated by this Agreement, and except as set forth in the Stockholders Agreement, dated as of March 9, 2005, among F Co. and the Stockholders (the "F Co Stockholders Agreement"), and the Stockholder hereby (i) waives any rights it may have under the F Co Stockholders Agreement that would in any way limit the ability of the other Stockholders to perform their respective obligations under this Agreement, and (ii) agrees that it will take such action as is necessary to cause the F Co Stockholders Agreement to be terminated immediately prior to consummation of the Merger.

(c) Investor Representations. The Stockholder acknowledges that the C Co Common Stock to be issued pursuant to the Merger Agreement initially will not be registered under the Securities Act in reliance on the exemptions from the registration requirements of Section 5 of the Securities Act set forth in Section 4(2) thereof and Regulation D promulgated thereunder. In connection therewith: (i) the Stockholder hereby represents and warrants to C Co that (A) it is an "accredited investor" as such term is defined under the Securities Act, or, alternatively, has such knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of an investment in C Co and the C Co Common Stock, and (B) the shares of C Co Common Stock to be issued to such Stockholder pursuant to the Merger Agreement are being purchased for investment for the account of such Stockholder and without the intent of participating directly or indirectly in a distribution of such shares in violation of the Securities Act or other applicable securities laws; (ii) in addition to any legend imposed by applicable state securities laws, the certificates representing the shares of C Co Common Stock

to be issued pursuant to the Merger Agreement will bear the restrictive legends set forth in the Merger Agreement and the Shareholders Agreement, and stop transfer orders shall be placed against the transfer thereof with C Co's transfer agent; and (iii) the shares of C Co Common Stock to be issued pursuant to the Merger will be subject to transfer restrictions imposed by federal and state securities laws, and as set forth in the Shareholders Agreement or the Lock-Up Agreement, as applicable.

SECTION 2. Additional Representations and Warranties of F Co Parent. In addition to the representations and warranties made under Section 2 hereof, Fidelity National Financial, Inc., a Delaware corporation ("F Co Parent"), hereby represents and warrants to C Co as of the date hereof as follows:

(a) Information Supplied. None of the information supplied by the F Co Parent for inclusion or incorporation by reference in the Proxy Statement or the Other Filings will, in the case of the Proxy Statement, at the date it is first mailed to C Co's shareholders or at the time of the C Co Shareholders' Meeting or at the time of any amendment or supplement thereof, or, in the case of any Other Filing, at the date it is first mailed to C Co's shareholders or, at the date it is first filed with the SEC, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. No representation is made by F Co Parent with respect to statements made or incorporated by reference therein based on information supplied by C Co in connection with the preparation of the Proxy Statement or the Other Filings for inclusion or incorporation by reference therein. All Other Filings that are filed by F Co Parent will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations promulgated thereunder.

(b) Brokers. No broker, finder or investment banker other than Bear, Stearns & Co, Inc. and Stephens Inc. is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by the Merger Agreement based upon arrangements made by or on behalf of F Co Parent.

SECTION 3. Representations and Warranties of C Co. C Co hereby represents and warrants to each Stockholder and F Co as follows: C Co is duly organized, validly existing and in good standing under the laws of the State of Georgia. C Co has all requisite corporate power and authority to execute and deliver this Agreement. The execution and delivery by C Co of this Agreement has been duly authorized by all necessary action on the part of C Co. C Co has duly executed and delivered this Agreement, and this Agreement constitutes the legal, valid and binding obligation of C Co, enforceable against C Co in accordance with its terms. The execution and delivery by C Co of this Agreement do not and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or result in the creation of any Lien upon any of the properties or assets of C Co under, any provision of (i) any organizational documents of C Co, (ii) any Contract to which C Co is a party or by which any assets of C Co are bound or (iii) subject to the filings and other matters referred to in the next sentence, any provision of any Law applicable to C Co or the assets of C Co, other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not, and are not reasonably likely to, materially impair or delay C Co's ability to consummate the transactions contemplated by the Merger Agreement.

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No Consent of, or registration, declaration or filing with, any Governmental Authority is required to be obtained or made by or with respect to C Co in connection with the execution, delivery and performance of this Agreement or the performance of its obligations hereunder or the compliance with the terms hereof other than (x) compliance with and filings under the HSR Act, (y) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement and (z) such other Consents, registrations, declarations or filings that are contemplated by or disclosed pursuant to the Merger Agreement or the failure of which to obtain or make are not, individually or in the aggregate, reasonably likely to materially impair or delay C Co's ability to perform its obligations hereunder or comply with the terms hereof.

SECTION 4. Covenants of Each Stockholder. Each Stockholder, severally and not jointly, covenants and agrees as follows:

(a) Immediately following the execution and delivery of the Merger Agreement, the Stockholder shall execute and deliver the Stockholder Consent to the Company. The Stockholder will not thereafter revoke or modify, or encourage other Stockholders to revoke or modify, the Stockholder Consent, and the Stockholder will not thereafter execute another written consent or vote (or cause to be voted) the Subject Shares of the Stockholder for any proposal that will approve any action in conflict with the Stockholder Consent or that would otherwise be reasonably likely to impede, frustrate, prevent or nullify any provision of the Merger Agreement, the Merger or the consummation of any of the transactions contemplated hereby or thereby.

(b) The Stockholder shall not Transfer, or consent to or permit any Transfer of, any Subject Shares or any interest therein, or enter into any Contract, option or other arrangement with respect to the Transfer (including any profit sharing or other derivative arrangement) of any Subject Shares or any interest therein, to any person other than pursuant to the Merger Agreement, other than pursuant to this Agreement or another Ancillary Agreement, and shall not commit or agree to take any of the foregoing actions. Transfer" means, directly or indirectly, to sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of (by operation of law or otherwise), either voluntarily or involuntarily, or to enter into any contract, option or other arrangement with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of (by operation of law or otherwise), any Subject Shares; provided, however, that a merger, consolidation or similar business combination transaction in which F Co Parent is a constituent corporation (or otherwise a party including, for the avoidance of doubt, a transaction pursuant to which a Person acquires all or a portion of F Co Parent's outstanding capital stock, whether by tender or exchange offer, by share exchange, or otherwise) shall not be deemed to be the Transfer of any Subject Shares beneficially owned by F Co Parent or any of its Subsidiaries, provided that the primary purpose of any such transaction is not to avoid the provisions of this Agreement and that the successor or surviving person to such a merger, consolidation or similar business combination transaction, if not F Co Parent, expressly assumes all obligations of F Co Parent under this Agreement. For purposes of this Agreement, the term Transfer shall include the sale of an Affiliate of F Co Parent or F Co Parent's interest in an Affiliate that beneficially owns Subject Shares unless such Transfer is in connection with a merger, amalgamation, plan of arrangement or consolidation or similar business combination transaction referred to in the first proviso of the previous sentence.

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(c) At or prior to the Closing, the Stockholder shall execute and deliver each Ancillary Agreement to which it has been designated to become a party thereto pursuant to the Merger Agreement.

(d) Each Stockholder hereby agrees that effective immediately prior to the Effective Time, each of (i) the Stockholders Agreement, dated as of March 9, 2005, by and among the F Co and the Stockholders, and (ii) the Registration Rights Agreement, dated as of March 9, 2005, by and

among F Co and the Stockholders shall be automatically terminated without any further action on the part of any party hereto, and thereafter such Stockholders Agreement and Registration Rights Agreement shall be of no further force or effect. TPG GenPar IV, L.P. agrees that effective immediately prior to the Effective Time, that the Management Agreement, dated as of March 9, 2005, by and between F Co and TPG GenPar IV, L.P. shall be automatically terminated without any further action on the part of any party hereto, and thereafter such Management Agreement shall be of no further force or effect. THL Managers V, LLC agrees that effective immediately prior to the Effective Time, that the Management Agreement, dated as of March 9, 2005, by and between F Co and THL Managers V, LLC shall be automatically terminated without any further action on the part of any party hereto, and thereafter such Management Agreement shall be of no further force or effect. Evercore Advisors L.L.C. agrees that effective immediately prior to the Effective Time, that the Management Agreement, dated as of March 9, 2005, by and between F Co and Evercore Advisors L.L.C. shall be automatically terminated without any further action on the part of any party hereto, and thereafter such Management Agreement shall be of no further force or effect.

(e) Each Stockholder (other than F Co Parent) hereby agrees that, effective as of the Effective Time and thereafter, such Stockholder shall have no rights to approve or veto any changes or amendments to the Intercompany Agreements.

SECTION 5. Additional Covenants of F Co Parent. F Co Parent covenants and agrees as follows:

(a) As promptly as practicable following the date of this Agreement F Co Parent shall, or shall cause its affiliates to, prepare and file with the SEC all Other Filings that are required to be filed by it in connection with the transactions contemplated by the Merger Agreement. F Co Parent shall timely furnish all information concerning itself and its affiliates that is required to be included in the Proxy Statement or, to the extent applicable, the Other Filings, or that is customarily included in proxy statements or other filings prepared in connection with transactions of the type contemplated by the Merger Agreement. F Co Parent shall use its reasonable best efforts to respond as promptly as practicable to any comments of the SEC with respect to the Other Filings. F Co Parent shall promptly notify C Co upon the receipt of any comments from the SEC or its staff or any request from the SEC or its staff for amendments or supplements to the Other Filings, and shall provide C Co with copies of all correspondence between it and its Representatives, on the one hand, and the SEC and its staff, on the other hand relating to the Other Filings. If at any time prior to the C Co Shareholders' Meeting, any information relating to F Co Parent or any of its affiliates, officers or directors, should be discovered by F Co Parent which should be set forth in an amendment or supplement to the Proxy Statement or the Other Filings, so that the Proxy Statement or the Other Filings shall not contain any untrue statement of a material fact or omit to state any material fact required to

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be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading, it shall promptly notify C Co so that an appropriate amendment or supplement describing such information shall be filed with the SEC and, to the extent required by applicable law, disseminated to the shareholders of C Co. Notwithstanding anything to the contrary stated above, prior to filing the Other Filings (or any amendment or supplement thereto) or responding to any comments of the SEC with respect thereto, F Co Parent shall provide C Co an opportunity to review and comment on such document or response.

(b) F Co Parent shall take such action as is necessary by it to amend the Intercompany Agreements in the manner contemplated by Section 6.16 of the Merger Agreement on or prior to the Effective Time.

(c) F Co Parent shall not issue any press release or make any other public statement with respect to the Merger Agreement, this Agreement, any other Ancillary Agreement, the Merger or any other transaction contemplated hereby or thereby without the prior consent of C Co, except as may be required by applicable law, requirements of the NYSE or court process after using its reasonable best efforts to consult with C Co and providing it with a reasonable opportunity for review and comment on such press release or other public statement to the extent practicable.

(d) F Co Parent shall give prompt notice to C Co of (i) the occurrence, or non-occurrence, of any event the occurrence, or non-occurrence, of which could reasonably be expected to cause a breach of any of the representations and warranties set forth in Sections 2 or 3 hereof, (ii) any failure of F Co Parent to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder. In addition, F Co Parent shall give prompt written notice to C Co of any notice or other communication (x) from any person and the response thereto of F Co Parent or its Representatives alleging that the consent of such person is or may be required in connection with the Merger Agreement or the Merger, and (y) from any Governmental Authority and the response thereto of F Co Parent or its Representatives in connection with the Merger Agreement or the Merger.

(e) Except as contemplated by any provision of the Merger Agreement, as required by law, or as set forth in Section 5.02 of the F Co Disclosure Schedule, F Co Parent will not, between the date of this Agreement and the Effective Time, without the prior written consent of C Co (which consent shall not be unreasonably withheld or delayed) take any action that, to the knowledge of F Co Parent, would reasonably be likely to prevent or materially delay satisfaction of the conditions contained in Section 7.01 or 7.02 of the Merger Agreement or the consummation of the Merger.

(f) F Co Parent agrees to use its reasonable best efforts to (i) take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things necessary, proper or advisable under applicable law or otherwise required of it in order to consummate the Merger, (ii) obtain from Governmental Authorities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained by it in connection with the authorization, execution and delivery of this Agreement, or in connection with the Merger and the transactions contemplated by the Merger Agreement, (iii) execute and deliver, or cause to be executed and

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delivered, such additional or further consents, documents and other instruments as C Co may reasonably request for the purpose of effectively carrying out the transactions contemplated by this Agreement. In addition, F Co Parent agrees that it will cooperate fully (including, without limitation, by providing all information reasonably requested of it) with the other parties in promptly seeking to obtain all authorizations, consents, orders and approvals required to be obtained by C Co and F Co in order to effect the Merger, including without limitation those required under the HSR Act or any other applicable antitrust, competition or fair trade laws with respect to the Merger.

SECTION 6. Indemnification.

(a) Each Stockholder and F Co shall execute and deliver an amendment to that certain Amended & Restated Stock Purchase Agreement, dated as of March 8, 2005, among F Co and the Stockholders in the form of **Exhibit A** attached hereto, on or prior to the Effective Time.

(b) F Co Parent shall, without limitation as to time, indemnify and hold harmless, to the fullest extent permitted by law, C Co, F Co, their respective officers, directors, agents, and employees (each, an “Indemnified Party”), to the fullest extent lawful, from and against any and all losses, claims, damages, liabilities, actions or proceedings (whether commenced or threatened), reasonable costs (including, without limitation, reasonable costs of preparation and reasonable attorneys’ fees) and reasonable expenses (including reasonable expenses of investigation) (collectively, “Losses”), as incurred, arising or resulting from, whether such Losses arise or accrue prior to, on or following the Effective Time, any untrue or alleged untrue statement of a material fact contained in any Proxy Statement, whether preliminary or definitive, or in any amendment or supplements thereto, or any Other Filing, or arising out of or based upon any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, to the extent, but only to the extent, that such untrue or alleged untrue statement is contained in, or such omission or alleged omission is required to be contained in, any information that F Co Parent furnished in writing to C Co expressly for use in any such Proxy Statement or which C Co incorporated by reference from F Co Parent’s SEC Reports. Each indemnity and reimbursement of costs and expenses shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party.

(c) C Co shall, without limitation as to time, indemnify and hold harmless, to the fullest extent permitted by law, F Co Parent and its respective officers, directors, agents, and employees (each, an “F Co Parent Indemnified Party”), to the fullest extent lawful, from and against any and all losses, claims, damages, liabilities, actions or proceedings (whether commenced or threatened), reasonable costs (including, without limitation, reasonable costs of preparation and reasonable attorneys’ fees) and reasonable expenses (including reasonable expenses of investigation) (collectively, “F Co Parent Losses”), as incurred, arising or resulting from, whether such F Co Parent Losses arise or accrue prior to, on or following the Effective Time, any untrue or alleged untrue statement of a material fact contained in any Proxy Statement, whether preliminary or definitive, or in any amendment or supplements thereto, or any Other Filing, or arising out of or based upon any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, to

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the extent, but only to the extent, that such untrue or alleged untrue statement is contained in, or such omission or alleged omission is required to be contained in, any information that C Co furnished for use in any such Proxy Statement. Each indemnity and reimbursement of costs and expenses shall remain in full force and effect regardless of any investigation made by or on behalf of such F Co Parent Indemnified Party.

SECTION 7. Termination. This Agreement shall terminate upon the earliest of (i) the Effective Time and (ii) the termination of the Merger Agreement in accordance with its terms, other than with respect to the liability of any party for breach hereof prior to such termination.

SECTION 8. Additional Matters.

(a) Each Stockholder shall, from time to time, execute and deliver, or cause to be executed and delivered, such additional or further consents, documents and other instruments as C Co may reasonably request for the purpose of effectively carrying out the transactions contemplated by this Agreement and the Merger Agreement.

(b) Each Stockholder signs solely in its capacity as the record holder and beneficial owner of such Stockholder’s Subject Shares and nothing herein shall limit or affect any actions taken by a partner or an officer, employee or agent of a Stockholder, in his or her capacity as an officer or director of F Co in exercising his or her rights under the Merger Agreement to the extent that such actions are expressly and specifically permitted under the Merger Agreement.

SECTION 9. General Provisions.

(a) Amendments. This Agreement may not be amended except by an instrument in writing signed by each of the parties hereto.

(b) Notice. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or sent by overnight courier (providing proof of delivery) to C Co in accordance with Section 9.02 of the Merger Agreement and to the Stockholders at their respective addresses set forth on **Schedule A** hereto (or at such other address for a party as shall be specified by like notice).

(c) Interpretation. When a reference is made in this Agreement to a Section or Schedule, such reference shall be to a Section of, or Schedule to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”. The words “hereby”, “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The words “date hereof” shall refer to the date of this Agreement. The term “or” is not exclusive. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Any agreement or instrument defined or referred to herein or in any agreement or instrument that is

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referred to herein means such agreement or instrument as from time to time amended, modified or supplemented unless otherwise specified. References to a person are also to its permitted successors and assigns.

(d) Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

(e) Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement. This Agreement shall become effective against any Stockholder when one or more counterparts have been executed by such Stockholder and delivered to C Co. In respect of each Stockholder, this Agreement shall become effective against C Co when one or more counterparts have been signed by C Co and delivered to each Stockholder. Each party need not sign the same counterpart.

(f) Entire Agreement; No Third-Party Beneficiaries. This Agreement (i) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and (ii) is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

(g) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof, except to the extent the Laws of Delaware are mandatorily applicable to the Merger.

(h) Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of Law or otherwise, by C Co without the prior written consent of each Stockholder or by any Stockholder without the prior written consent of C Co, and any purported assignment without such consent shall be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

(i) Enforcement. All Actions arising out of or relating to this Agreement shall be heard and determined exclusively in any federal or state court located in Jacksonville, Florida. The parties hereby (i) submit to the exclusive jurisdiction of any state or federal court located in Jacksonville, Florida for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (ii) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue

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of the Action is improper, or that this Agreement or the Merger may not be enforced in or by any of the above-named courts.

(j) Specific Performance. Each party hereto acknowledges that it will be impossible to measure in money the damages to the other parties if a party hereto fails to comply with any of the obligations imposed by this Agreement, that every such obligation is material and that, in the event of any such failure, the other parties will not have an adequate remedy at law or in damages. Accordingly, each party hereto agrees that injunctive relief or any other equitable remedy, in addition to remedies at law or in damages, is the appropriate remedy for any such failure and will not oppose the granting of such relief on the basis that the other party has an adequate remedy at law or in damages. Each party hereto agrees that it will not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with any other party's seeking or obtaining such equitable relief.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, C Co has caused this Agreement to be signed by its officer thereunto duly authorized and each Stockholder has signed this Agreement, all as of the date first written above.

CERTEGY INC.

By: /s/Lee A. Kennedy
Name: Lee A. Kennedy
Title: Chairman and Chief Executive Officer

FIDELITY NATIONAL FINANCIAL, INC.

By: /s/William P. Foley, II
Name: William P. Foley, II
Title: Chairman and Chief Executive Officer

[Signature pages of the Other Stockholders follow]

IN WITNESS WHEREOF, Certegy Inc. has caused this Agreement to be signed by its officer thereunto duly authorized and each Stockholder has signed this Agreement, all as of the date first written above.

COMPANY:
CERTEGY INC.

By: /s/Lee A. Kennedy
Name: _____ Lee A. Kennedy

Title:

Chairman and
Chief Executive
Officer

SHAREHOLDERS:

FIDELITY NATIONAL FINANCIAL, INC.

By: /s/William P. Foley, II

Name: William P. Foley, II

Title: Chairman and Chief Executive Officer

SIGNATURE PAGE COMMITMENT AGREEMENT

THL FNIS HOLDINGS, LLC

By: THL Equity Advisors V, LLC, its manager

By: Thomas H. Lee Partners, L.P., its sole member

By: Thomas H. Lee Advisors LLC, its general partner

By: /s/Thomas H. Lee

Name: Thomas H. Lee

Title: Managing Director

THOMAS H. LEE (CAYMAN) FUND V, L.P.

By: THL Equity Advisors V, LLC, its general partner

By: Thomas H. Lee Partners, L.P., its sole member

By: Thomas H. Lee Advisors LLC, its general partner

By: /s/Thomas H. Lee

Name: Thomas H. Lee

Title: Managing Director

THOMAS H. LEE INVESTORS LIMITED PARTNERSHIP

By: THL Investment Management Corp., its general partner

By: /s/Thomas H. Lee

Name: Thomas H. Lee

Title: Managing Director

PUTNAM INVESTMENTS EMPLOYEES' SECURITIES COMPANY I LLC

By: Putnam Investment Holdings, LLC, its managing member

By: Putnam Investments, LLC, its managing member

By: /s/Robert Burns

Name: Robert Burns

Title: Managing Director

SIGNATURE PAGE COMMITMENT AGREEMENT

**PUTNAM INVESTMENTS EMPLOYEES'
SECURITIES COMPANY II LLC**

By: Putnam Investment Holdings, LLC, its managing member

By: Putnam Investments, LLC, its managing member

By: /s/Robert Burns
Name: Robert Burns
Title: Managing Director

PUTNAM INVESTMENT HOLDINGS, LLC

By: Putnam Investments, LLC, its managing member

By: /s/Robert Burns
Name: Robert Burns
Title: Managing Director

SIGNATURE PAGE COMMITMENT AGREEMENT

TPG FNIS HOLDINGS, LLC

By: TPG GenPar III, L.P., its manager

By: TPG Advisors III, Inc., its general partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

TPG PARALLEL III, L.P.

By: TPG GenPar III, L.P., its general partner

By: TPG Advisors III, Inc., its general partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

TPG INVESTORS III, L.P.

By: TPG GenPar III, L.P., its general partner

By: TPG Advisors III, Inc., its general partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

FOF PARTNERS III, L.P.

By: TPG GenPar III,
L.P., its general
partner

By: TPG Advisors
III, Inc., its general
partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

FOF PARTNERS III-B, L.P.

By: TPG GenPar III,
L.P., its general
partner

By: TPG Advisors
III, Inc., its general
partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

SIGNATURE PAGE COMMITMENT AGREEMENT

TPG DUTCH PARALLEL III, C.V.

By: TPG GenPar
Dutch, L.L.C., its
general partner

By: TPG Genpar III,
L.P., its general
partner

By: TPG Advisors
III, Inc., its general
partner

By: /s/David A. Spuria
Name: David A. Spuria
Title: Vice President

SIGNATURE PAGE COMMITMENT AGREEMENT

**EVERCORE METC CAPITAL PARTNERS II
L.P.**

By: Evercore Partners
II L.L.C., its
General Partner

By: /s/Kathleen G. Reiland
Name: Kathleen G. Reiland
Title: Senior Managing Director

SIGNATURE PAGE COMMITMENT AGREEMENT

**BANC OF AMERICA CAPITAL INVESTORS,
L.P.**

By: Banc of America Capital Management, L.P., its General
Partner

By: BACM I GP, LLC,
its General Partner

By: /s/J. Travis Hain
Name: J. Travis Hain
Title: Managing Partner

SIGNATURE PAGE COMMITMENT AGREEMENT

Solely for the purposes set forth in Section 4(d):

TPG GENPAR IV, L.P.

By: TPG
Advisors
IV, Inc.,
its
general
partner

By: /s/David A. Spuria

Name: David A. Spuria
Title: Vice President

SIGNATURE PAGE COMMITMENT AGREEMENT

EVERCORE ADVISORS L.L.C.

By: /s/Kathleen G. Reiland
Name: Kathleen G. Reiland
Title: Managing Member

SIGNATURE PAGE COMMITMENT AGREEMENT

THL MANAGERS V, LLC

By: Thomas H. Lee Partners, L.P., its Managing
Member

By: Thomas H. Lee Advisors LLC, its general
partner

By: /s/Thomas H. Lee
Name: Thomas H. Lee
Title: Managing Director

SIGNATURE PAGE COMMITMENT AGREEMENT

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into as of this 14th day of September, 2005, by and between CERTEGY, INC., a Georgia corporation (the "Company"), and LEE A. KENNEDY (the "Employee").

RECITALS:

WHEREAS, the Company and Employee have previously entered into a letter agreement dated May 2002 ("Prior Agreement") specifying the payments and benefits payable to the Employee in the event the Employee's employment is terminated in connection with a "Change in Control" of the Company (as defined in the Prior Agreement); and

WHEREAS, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") dated the date hereof with C Co Merger Sub, LLC and Fidelity National Information Services, Inc.; and

WHEREAS, the Merger constitutes a Change in Control as defined in the Prior Agreement; and

WHEREAS, the Company desires to terminate the Prior Agreement and enter into this Agreement to recognize Employee's superior performance and continuing value to the Company and its shareholders; and

WHEREAS, Employee desires to continue his employment with the Company on the terms and conditions provided herein

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Purpose and Effectiveness.

- (a) The purpose of this Agreement is to terminate the Prior Agreement, to recognize Employee's significant contributions to the overall financial performance and success of the Company, to protect the Company's business interests through the addition of restrictive covenants, and to provide a single, integrated document which shall provide the basis for Employee's continued employment by the Company;
- (b) In consideration of and immediately upon the termination of the Prior Agreement, the Company shall pay to Employee \$6,250,000 and Employee shall release all rights and claims that Employee has, had or may have against the Company pursuant to or arising under such Prior Agreement or with respect to any other benefits to which Employee may be entitled as a result of the Merger; and

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- (c) This Agreement shall not be effective until the Effective Time (as defined in the Merger Agreement) (the "Effective Date"), and this Agreement shall terminate immediately if the Merger Agreement is terminated in accordance with its terms prior to the Effective Time.

2. Employment and Duties. Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive capacity as Chief Executive Officer. Employee accepts such employment and agrees to undertake and discharge the duties, functions and responsibilities commensurate with said position and as they are from time to time assigned to the Employee by the Board of Directors of the Company (the "Board") consistent with the terms and provisions of this Agreement.

3. Term and Place of Employment. The term of this Agreement shall commence on the Effective Date and shall continue for a period of four years ending on the fourth anniversary of the Effective Date, subject to prior termination as set forth in Section 9 (the "Employment Term"). Notwithstanding any termination of the Employment Term or the Employee's employment, the Employee and the Company agree that Section 9 through 11 shall remain in effect until all parties' obligations and benefits are satisfied thereunder.

4. Salary. During the Employment Term, the Company shall pay the Employee an annual base salary, before deducting all applicable withholdings, of \$750,000 per year, payable at the time and in the manner dictated by the Company's standard payroll policies. Such minimum annual base salary may be periodically reviewed and increased at the Company's discretion to reflect, among other matters, cost of living increases and performance results (such annual base salary, including any increases pursuant to this Section 4, the "Annual Base Salary").

5. Other Compensation and Fringe Benefits. In addition to any executive bonus, pension, deferred compensation and long-term incentive plans which the Company may from time to time make available to the Employee, the Employee shall be entitled to the following during the Employment Term:

- (a) the standard Company benefits enjoyed by the Company's other top executives as a group;
- (b) payment by the Company of the Employee's initiation and membership dues in all social and/or recreational clubs as deemed necessary and appropriate by the Company to maintain various business relationships on behalf of the Company; provided, however, that the Company shall not be obligated to pay for any of the Employee's personal purchases and expenses at such clubs;
- (c) medical and other insurance coverage (for the Employee and any covered dependents) provided by the Company to its other top executives as a group;
- (d) supplemental disability insurance sufficient to provide two-thirds of the Employee's pre-disability Annual Base Salary;

(e) an annual incentive bonus opportunity (“Annual Bonus”) for each calendar year included in the Employment Term, with such opportunity to be earned based upon attainment of performance objectives established by the Compensation Committee (the “Committee”) of the Board. The Employee’s target Annual Bonus opportunity shall be not less than 200% of the Employee’s Annual Base Salary. The Employee’s target Annual Bonus opportunity may be periodically reviewed and increased (but not decreased without the Employee’s express written consent) at the discretion of the Company. Subject to Section 9, the Annual Bonus shall become fully vested at the end of each calendar year within the Employment Term and shall be paid no later than March 15th of the following year.

6. Options. In recognition of the value of the services that Employee will provide to the Company under this Agreement, on the Effective Date, the Company shall grant to the Employee a non-qualified option to acquire 750,000 shares of the Company’s common stock (the “Options”). The Options shall be granted pursuant to the Company’s Stock Incentive Plan (the “Plan”) and shall be subject to the terms and conditions of a stock option agreement and notice of stock option to be issued pursuant to the Plan. The Options will have an eight-year term, will vest in three equal annual installments beginning on the first anniversary of the Effective Date and ending on the third anniversary of the Effective Date, and will be granted at an exercise price equal to the closing price per share of the Company’s common stock as quoted on the New York Stock Exchange on the Effective Date.

7. Vacation. For and during each calendar year within the Employment Term, the Employee shall be entitled to reasonable paid vacation periods consistent with his positions with the Company and in accordance with the Company’s standard policies, or as the Board may approve. In addition, the Employee shall be entitled to such holidays consistent with the Company’s standard policies or as the Board or the Committee may approve.

8. Expense Reimbursement. In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses to the extent such reimbursement is permitted under the Company’s expense reimbursement policy.

9. Termination of Employment. The Company or the Employee may terminate the Employee’s employment at any time and for any reason in accordance with subsection 9(a) below. The Employment Term shall be deemed to have ended on the last day of the Employee’s employment. The Employment Term shall terminate automatically upon the Employee’s death.

(a) Notice of Termination. Any purported termination of the Employee’s employment (other than by reason of death) shall be communicated by written Notice of Termination from one party hereto to the other party hereto in accordance with the notice provisions contained in Section 27. For purposes of this Agreement, a “Notice of Termination” shall mean a notice that indicates the Date of Termination (as that term is defined in Section 9(b)) and, with respect to a termination due to Disability, Cause or Good Reason, sets forth in reasonable

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detail the facts and circumstances that are alleged to provide a basis for such termination. A Notice of Termination from the Company shall specify whether the termination is with or without Cause or due to the Employee’s Disability. A Notice of Termination from the Employee shall specify whether the termination is with or without Good Reason or due to Disability.

(b) Date of Termination. For purposes of this Agreement, “Date of Termination” shall mean the date specified in the Notice of Termination (but in no event shall such date be earlier than the 30th day following the date the Notice of Termination is given, unless expressly agreed to by the parties hereto) or the date of the Employee’s death.

(c) No Waiver. The failure to set forth any fact or circumstance in a Notice of Termination, which fact or circumstance was not known to the party giving the Notice of Termination when the notice was given, shall not constitute a waiver of the right to assert such fact or circumstance in an attempt to enforce any right under or provision of this Agreement.

(d) Cause. For purposes of this Agreement, “Cause” means the Employee’s (i) persistent failure to perform duties consistent with a commercially reasonable standard of care (other than due to a physical or mental impairment); (ii) willful neglect of duties (other than due to a physical or mental impairment); (iii) conviction of, or pleading nolo contendere to, criminal or other illegal activities involving dishonesty; or (iv) material breach of this Agreement. No act or failure to act directly related to Company action or inaction that constitutes Good Reason shall constitute Cause under this Agreement if the Employee has provided a Notice of Termination based on such Good Reason event prior to the Company’s giving of the Notice of Termination for Cause. The Employee’s termination for Cause shall be effective when and if a resolution is duly adopted by an affirmative vote of at least three fourths ($\frac{3}{4}$) of the Board (less the Employee if the Employee is a Director), stating that, in the good faith opinion of the Board, the Employee is guilty of the conduct described in the Notice of Termination and such conduct constitutes Cause under this Agreement; provided, however, that the Employee shall have been given reasonable opportunity (i) to cure any act or omission that constitutes Cause if capable of cure and (ii), together with counsel, during the thirty (30) day period following the receipt by the Employee of the Notice of Termination and prior to the adoption of the Board’s resolution, to be heard by the Board.

(e) Disability. For purposes of this Agreement, the Employee shall be deemed to have a Disability if the Employee is entitled to long-term disability benefits under the Company’s long-term disability plan or policy, as the case may be, as in effect on the Date of Termination.

(f) Good Reason. For purposes of this Agreement, the term “Good Reason” means the occurrence (without the Employee’s express written consent) during the Employment Term of any of the following acts or failures to act by the Company:

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(i) an adverse change in the Employee’s title, the assignment to the Employee of duties materially inconsistent with the Employee’s position of Chief Executive Officer, or a substantial diminution in the Employee’s authority;

(ii) the material breach by the Company of any of its other obligations under this Agreement;

- (iii) following a Change in Control, the relocation of the Employee's primary place of employment to a location more than 50 miles from the Employee's primary place of employment immediately prior to the Change in Control; or
- (iv) the failure of the Company to obtain the assumption of this Agreement as contemplated in Section 23.

The Employee's continued employment shall not constitute consent to, or a waiver of rights with respect to, any act or failure to act constituting Good Reason hereunder; provided, however, that no such event described above shall constitute Good Reason unless the Employee has given a Notice of Termination to the Company specifying the condition or event relied upon for such termination within ninety (90) days from the Employee's actual knowledge of the occurrence of such event and, if capable of cure, the Company has failed to cure the condition or event constituting Good Reason within the thirty (30) day period following receipt of the Employee's Notice of Termination.

10. Obligations of the Company upon Termination.

- (a) Termination by the Company for other than Cause or Disability or Termination by the Employee for Good Reason. If the Employee's employment is terminated by the Company for any reason other than Cause or Disability or by the Employee (x) for Good Reason or (y) for any reason during the one (1) year period that begins on the first anniversary of a Change in Control:
 - (i) the Company shall pay to the Employee, (A) within five (5) business days after the Date of Termination, any earned but unpaid Annual Base Salary and any expense reimbursement payments owed to the Employee, and (B) within five (5) business days after the Date of Termination or, if later, by March 15 of the year in which the Date of Termination occurs, any earned but unpaid Annual Bonus payments relating to the prior calendar year (the "Accrued Obligations");
 - (ii) the Company shall pay to the Employee, within thirty (30) business days after the Date of Termination, a prorated Annual Bonus based on (A) the target Annual Bonus opportunity in the year in which the Date of Termination occurs or the prior year if no target Annual Bonus opportunity has yet been determined and (B) the fraction of the year the Employee was employed;

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- (iii) the Company shall pay to the Employee, within thirty (30) business days after the Date of Termination, a lump-sum payment equal to 300% of the sum of (x) the Employee's Annual Base Salary in effect immediately prior to the Date of Termination (disregarding any reduction in Annual Base Salary to which the Employee did not expressly consent in writing) and (y) the highest Annual Bonus paid to the Employee by the Company within the three years preceding his termination of employment or, if higher, the highest target Annual Bonus opportunity in the year in which the Date of Termination occurs;
- (iv) all stock option, restricted stock and other equity-based incentive awards granted by the Company that were outstanding but not vested as of the Date of Termination shall become immediately vested and/or payable, as the case may be; and
- (v) for a three (3) year period after the Date of Termination, the Company will provide or cause to be provided to the Employee (and any covered dependents), with life and health insurance benefits (but not disability insurance benefits) substantially similar to those the Employee and any covered dependents were receiving immediately prior to the Notice of Termination at the same level of benefits and at the same dollar cost to the Employee as is available to the Company's executive officers generally, provided that the Employee's continued receipt of such benefits is possible under the general terms and provisions of the applicable plans and programs, and provided further, that such benefits would not be taxable to the Employee or subject to Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"). In the event that the Employee's participation in any such plan or program is prohibited, the Company shall, at its expense, arrange to provide the Employee with benefits substantially similar to those which the Employee would otherwise have been entitled to receive under such plans and programs from which his continued participation is prohibited. If the Company arranges to provide the Employee and covered dependents with life and health insurance benefits, those benefits will be reduced to the extent comparable benefits are received by, or made available to, the Employee (at no greater cost to the Employee) by another employer during the three (3) year period following the Employee's Date of Termination. The Employee must report to the Company any such benefits that he receives or that are made available. In lieu of the benefits described in this Section 10(a)(v), the Company, in its sole discretion, may elect to pay to the Employee a lump sum cash payment equal to the monthly premiums that would have been paid by the Company to provide such benefits to the Employee for each month such coverage is not provided under this Section 10(a)(v). Nothing in this Section 10(a)(v) will extend the COBRA continuation coverage period.

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The Company shall provide the Employee with advance written notice of the date of the first anniversary of any Change in Control.

- (b) Termination by the Company for Cause or by the Employee without Good Reason. If the Employee's employment is terminated by the Company for Cause or by the Employee without Good Reason, the Company's only obligation under this Agreement shall be payment of any Accrued Obligations.
- (c) Termination due to death or Disability. If the Employee's employment is terminated due to death or Disability, the Company shall pay to the Employee (or to the Employee's estate or personal representative in the case of the Employee's death), within thirty (30) business days after the Date of Termination, (i) any Accrued Obligations and (ii) a prorated Annual Bonus based on (A) the target Annual Bonus opportunity in the year in which the Date of Termination occurs or the prior year if no target Annual Bonus opportunity has yet been determined and (B) the fraction of the year the Employee was employed.
- (d) Definition of Change in Control. For purposes of this Agreement, the term "Change in Control" shall mean that the conditions set forth in any one of the following subsections shall have been satisfied:

- (i) the acquisition, directly or indirectly, by any “person” (within the meaning of Section 3(a)(9) of the Securities and Exchange Act of 1934, as amended (the “Exchange Act”) and used in Sections 13(d) and 14(d) thereof) of “beneficial ownership” (within the meaning of Rule 13d-3 of the Exchange Act) of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of all outstanding securities of the Company;
- (ii) a merger or consolidation in which the Company is not the surviving entity, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such merger or consolidation hold, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the surviving entity immediately after such merger or consolidation;
- (iii) a reverse merger in which the Company is the surviving entity but in which securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the Company are transferred to or acquired by a person or persons different from the persons holding those securities immediately prior to such merger;
- (iv) during any period of two (2) consecutive years during the Employment Term or any extensions thereof, individuals, who, at the beginning of such period, constitute the Board, cease for any reason to constitute at least a majority thereof, unless the election of each director who was not a

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director at the beginning of such period has been approved in advance by directors representing at least two-thirds of the directors then in office who were directors at the beginning of the period.

- (v) the sale, transfer or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company; or
- (vi) the approval by the stockholders of a plan or proposal for the liquidation or dissolution of the Company.

11. Excise Tax Gross-up Payments.

- (a) If any payments or benefits paid or provided or to be paid or provided to the Employee or for his benefit pursuant to the terms of this Agreement or otherwise in connection with, or arising out of, his employment with the Company or its subsidiaries or the termination thereof (a “Payment” and, collectively, the “Payments”) would be subject to the excise tax (the “Excise Tax”) imposed by Section 4999 of the Code, then, except as otherwise provided in this Section 11(a), the Employee will be entitled to receive an additional payment (a “Gross-Up Payment”) in an amount such that, after payment by the Employee of all income taxes, all employment taxes and any Excise Tax imposed upon the Gross-Up Payment (including any related interest and penalties), the Employee retains an amount of the Gross-Up Payment equal to the Excise Tax (including any related interest and penalties) imposed upon the Payments. Notwithstanding the foregoing, if the amount of the Payments does not exceed by more than 3% the amount that would be payable to the Employee if the Payments were reduced to one dollar less than what would constitute a “parachute payment” under Section 280G of the Code (the “Scaled Back Amount”), then the Payments shall be reduced, in a manner determined by the Employee, to the Scaled Back Amount, and the Employee shall not be entitled to any Gross-Up Payment.
- (b) An initial determination of (i) whether a Gross-Up Payment is required pursuant to this Agreement, and, if applicable, the amount of such Gross-Up Payment or (ii) whether the Payments must be reduced to the Scaled Back Amount and, if so, the amount of such reduction, will be made at the Company’s expense by an accounting firm selected by the Company. The accounting firm will provide its determination, together with detailed supporting calculations and documentation, to the Company and the Employee within ten (10) business days after the date of termination of Employee’s employment, or such other time as may be reasonably requested by the Company or the Employee. If the accounting firm determines that no Excise Tax is payable by the Employee with respect to a Payment or Payments, it will furnish the Employee with an opinion to that effect. If a Gross-Up Payment becomes payable, such Gross-Up Payment will be paid by the Company to the Employee within thirty (30) business days of the receipt of the

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accounting firm’s determination. If a reduction in Payments is required, such reduction shall be effectuated within thirty (30) business days of the receipt of the accounting firm’s determination. Within ten (10) business days after the accounting firm delivers its determination to the Employee, the Employee will have the right to dispute the determination. The existence of a dispute will not in any way affect the Employee’s right to receive a Gross-Up Payment in accordance with the determination. If there is no dispute, the determination will be binding, final, and conclusive upon the Company and the Employee. If there is a dispute, the Company and the Employee will together select a second accounting firm, which will review the determination and the Employee’s basis for the dispute and then will render its own determination, which will be binding, final, and conclusive on the Company and on the Employee for purposes of determining whether a Gross-Up Payment is required pursuant to this Section 11(b) or whether a reduction to the Scaled Back Amount is required, as the case may be. If as a result of any dispute pursuant to this Section 11(b) a Gross-Up Payment is made or additional Gross-Up Payments are made, such Gross-Up Payment(s) will be paid by the Company to the Employee within thirty (30) business days of the receipt of the second accounting firm’s determination. The Company will bear all costs associated with the second accounting firm’s determination, unless such determination does not result in additional Gross-Up Payments to the Employee or unless such determination does not mitigate the reduction in Payments required to arrive at the Scaled Back Amount, in which case all such costs will be borne by the Employee.

- (c) For purposes of determining the amount of the Gross-Up Payment and, if applicable, the Scaled Back Amount, the Employee will be deemed to pay federal income taxes at the highest marginal rate of federal income taxation in the calendar year in which the Gross-Up Payment is to be made or the Scaled Back Amount is determined, as the case may be, and applicable state and local income taxes at the highest marginal rate of taxation in the state and locality of the Employee’s residence on the date of termination of Employee’s employment, net of the maximum reduction in federal income taxes that would be obtained from deduction of those state and local taxes.

- (d) As a result of the uncertainty in the application of Section 4999 of the Code, it is possible that Gross-Up Payments which will not have been made by the Company should have been made, the Employee's Payments will be reduced to the Scaled Back Amount when they should not have been or the Employee's Payments are reduced to a greater extent than they should have been (an "Underpayment") or Gross-Up Payments are made by the Company which should not have been made, the Employee's Payments are not reduced to the Scaled Back Amount when they should have been or they are not reduced to the extent they should have been (an "Overpayment"). If it is determined that an Underpayment has occurred, the accounting firm shall determine the amount of the Underpayment that has occurred and any such Underpayment (together with interest at the rate provided in Section 1274(b)(2)(B) of the Code) shall be promptly paid by the Company to or for the benefit of Employee. If it is determined that an Overpayment has occurred, the accounting firm shall determine the amount of the Overpayment that has occurred and any such Overpayment (together with interest at the rate

provided in Section 1274(b)(2) of the Code) shall be promptly paid by the Employee (to the extent he has received a refund if the applicable Excise Tax has been paid to the Internal Revenue Service) to or for the benefit of the Company; provided, however, that if the Company determines that such repayment obligation would be or result in an unlawful extension of credit under Section 13(k) of the Exchange Act, repayment shall not be required. The Employee shall cooperate, to the extent his expenses are reimbursed by the Company, with any reasonable requests by the Company in connection with any contest or disputes with the Internal Revenue Service in connection with the Excise Tax.

- (e) The Employee shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require a payment resulting in an Underpayment. Such notification shall be given as soon as practicable but no later than ten (10) business days after the Employee is informed in writing of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Employee shall not pay such claim prior to the expiration of the thirty (30) day period following the date on which he gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Employee in writing prior to the expiration of such period that it desires to contest such claim, the Employee shall:
- (i) give the Company any information reasonably requested by the Company relating to such claim,
 - (ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,
 - (iii) cooperate with the Company in good faith in order effectively to contest such claim, and
 - (iv) permit the Company to participate in any proceeding relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Employee harmless, on an after-tax basis, for any Excise Tax or income tax (including related interest and penalties) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 11(e), the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Employee to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and the Employee agrees to prosecute such contest to a determination before any administrative

tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Employee to pay such claim and sue for a refund, the Company shall advance the amount of such payment to the Employee, on an interest-free basis and shall indemnify and hold the Employee harmless, on an after-tax basis, from any Excise Tax or income tax (including related interest or penalties) imposed with respect to such advance or with respect to any imputed income with respect to such advance. The Company's control of the contest shall be limited to issues that may impact Gross-Up Payments or reduction in Payments under this Section 11, and the Employee shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

- (f) If, after the receipt by the Employee of an amount advanced by the Company pursuant to Section 11(e), the Employee becomes entitled to receive any refund with respect to such claim, the Employee shall (subject to the Company's complying with the requirements of Section 11(e)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Employee of an amount advanced by the Company pursuant to Section 11(e), a determination is made that the Employee shall not be entitled to any refund with respect to such claim and the Company does not notify the Employee in writing of its intent to contest such denial of refund prior to the expiration of thirty (30) days after such determination, then such advance shall be forgiven and shall not be required to be repaid.

12. Non-Delegation of Employee's Rights. The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

13. Confidential Information. The Employee acknowledges that in his capacity as an employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company and its affiliates and their operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers,

marketing, and the Company's and its affiliates' financial positions and financing arrangements. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company and/or its affiliates, as the case may be. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's or its affiliates' methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company or any of its affiliates, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 13. Accordingly, the Employee agrees that during the Employment Term and at all times thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor

will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company and its affiliates.

14. Non-Competition During Employment Term. The Employee agrees that, during the Employment Term, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company and its affiliates, and he will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit customers, suppliers or employees of the Company or affiliates on behalf of, or in any other manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Employment Term, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or any other person for the purpose of organizing any such competitive business activity.

15. Non-Competition After Employment Term. The parties acknowledge that as an executive officer of the Company the Employee will acquire substantial knowledge and information concerning the business of the Company and its affiliates as a result of his employment. The parties further acknowledge that the scope of business in which the Company and its affiliates are engaged as of the Effective Date is national and very competitive and one in which few companies can successfully compete. Competition by an executive officer such as the Employee in that business after the Employment Term is terminated would severely injure the Company and its affiliates. Accordingly, for a period of one year after the Employee's employment terminates for any reason whatsoever, except as otherwise stated herein below, the Employee agrees (a) not to become an employee, consultant, advisor, principal, partner or substantial shareholder of any firm or business that in any way competes with the Company or its affiliates in any of their presently-existing or then-existing products and markets; and (b), on behalf of any such competitive firm or business, not to solicit any person or business that was at the time of such termination and remains a customer or prospective customer, a supplier or prospective supplier, or an employee of the Company or an affiliate. Notwithstanding any of the foregoing provisions to the contrary, the Employee shall not be subject to the restrictions set forth in this Section 15 under the following circumstances:

- (a) if the Employee's employment is terminated by the Company without Cause;
- (b) if the Employee's employment is terminated as a result of the Company's unwillingness to extend the Employment Term; or
- (c) if the Employee terminates employment for Good Reason.

16. Return of Company Documents. Upon termination of the Employment Term, Employee shall return immediately to the Company all records and documents of or pertaining to the Company or its affiliates and shall not make or retain any copy or extract of any such record or document, and other property of the Company or its affiliates.

17. Improvements and Inventions. Any and all improvements or inventions, which the Employee may make or participate in during the Employment Term, unless wholly unrelated to the business of the Company and its affiliates and produced not in the scope of Employee's

employment hereunder, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

18. Actions. The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is, therefore, agreed between and hereby acknowledged by the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee hereby acknowledges that obligations under Sections 13, 15, 16, 17, 18, 19 and 20 shall survive the termination of his employment and he shall be bound by their terms at all times subsequent to the termination of his employment for the periods specified therein. Nothing herein contained shall in any way limit or exclude any other right granted by law or equity to the Company.

19. Release. Notwithstanding any provision herein to the contrary, the Company will require that, prior to payment of any amount or provision of any benefit under Section 10 or payment of any Gross-Up Payment pursuant to Section 11 of this Agreement (other than due to the Employee's death), the Employee shall have executed a complete release of the Company and its affiliates and related parties in such form as is reasonably required by the Company, and any waiting periods contained in such release shall have expired.

20. No Mitigation. The Company agrees that, if the Employee's employment hereunder is terminated during the Employment Term, the Employee is not required to seek other employment or to attempt in any way to reduce any amounts payable to the Employee by the Company hereunder. Further, the amount of any payment or benefit provided for hereunder (other than pursuant to Section 10(a)(v) hereof) shall not be reduced by any compensation earned by the Employee as the result of employment by another employer, by retirement benefits or otherwise.

21. Entire Agreement and Amendment. This Agreement embodies the entire agreement and understanding of the parties hereto in respect of the subject matter of this Agreement, and supersedes and replaces all prior agreements, understandings and commitments with respect to such subject matter,

including, without limitation, the Prior Agreement. This Agreement may be amended only by a written document signed by both parties to this Agreement.

22. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Plan to the substantive law of another jurisdiction. Any litigation pertaining to this Agreement shall be adjudicated in courts located in Duval County, Florida.

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23. Successors. In addition to any obligations imposed by law upon any successor to the Company, the Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company, to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company as herein before defined and any such successor that expressly assumes this Agreement or otherwise becomes bound by all the terms and provisions of this Agreement by operation of law.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

25. Attorneys' Fees. If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to interpret or enforce any of the terms hereof, the party prevailing in any such action or other proceeding shall be paid by the other party its reasonable legal fees, court costs, litigation expenses, all as determined by the court and not a jury; provided, however, that on or after a Change in Control, if any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to interpret or enforce any of the terms hereof, the Company shall pay (on an ongoing basis) to the Employee to the fullest extent permitted by law, all legal fees, court costs and litigation expenses reasonably incurred by the Employee or others on his behalf (such amounts collectively referred to as the "Reimbursed Amounts"); provided, further, that the Employee shall reimburse the Company for the Reimbursed Amounts if it is determined that a majority of the Employee's claims or defenses were frivolous or without merit.

26. Severability. If any section, subsection or provision hereof is found for any reason whatsoever to be invalid or inoperative, that section, subsection or provision shall be deemed severable and shall not affect the force and validity of any other provision of this Agreement. If any covenant herein is determined by a court to be overly broad thereby making the covenant unenforceable, the parties agree and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the covenant and that as so modified the covenant shall be as fully enforceable as if set forth herein by the parties themselves in the modified form. The covenants of the Employee in this Agreement shall each be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the covenants in this Agreement.

27. Notices. Any notice, request, or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after being sent by United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

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To the Company:

Certegy, Inc.
601 Riverside Avenue
Jacksonville, FL 32204
Attention: Peter T. Sadowski

To the Employee:

Lee A. Kennedy

28. Waiver of Breach. The waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

29. Tax Withholding. The Company or an affiliate may deduct from all compensation and benefits payable under this Agreement any taxes or withholdings the Company is required to deduct pursuant to state, federal or local laws.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

CERTEGY, INC.

By: /s/Phillip B. Lassiter
Its: Director and Member of the
Compensation Committee

LEE A. KENNEDY

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is made and entered into as of this 14th day of September, 2005 by and between CERTEGY, INC. (the "Company"), and JEFFREY S. CARBIENER (the "Employee").

RECITALS:

WHEREAS, the Company and Employee have previously entered into a letter agreement dated May 2002 ("Prior Agreement") specifying the payments and benefits payable to the Employee in the event the Employee's employment is terminated in connection with a "Change in Control" of the Company (as defined in the Prior Agreement); and

WHEREAS, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") dated the date hereof with C Co Merger Sub, LLC and Fidelity National Information Services, Inc.; and

WHEREAS, the Merger constitutes a Change in Control as defined in the Prior Agreement; and

WHEREAS, the Company desires to terminate the Prior Agreement and enter into this Agreement to recognize Employee's superior performance and continuing value to the Company and its shareholders; and

WHEREAS, Employee desires to continue his employment with the Company on the terms and conditions provided herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. *Purpose and Effectiveness.*

- (a) The purpose of this Agreement is to terminate the Prior Agreement, to recognize Employee's significant contributions to the overall financial performance and success of the Company, to protect the Company's business interests through the addition of restrictive covenants, and to provide a single, integrated document which shall provide the basis for Employee's continued employment by the Company;
- (b) In consideration of and immediately upon the termination of the Prior Agreement, the Company shall pay to Employee \$500,000 and Employee shall release all rights and claims that Employee has, had or may have against the Company pursuant to or arising under such Prior Agreement; and
- (c) This Agreement shall not be effective until the Effective Time (as defined in the Merger Agreement) (the "Effective Date"), and this Agreement shall terminate immediately if the Merger Agreement is terminated in accordance with its terms prior to the Effective Time.

2. *Employment and Duties.* Subject to the terms and conditions of this Agreement, the Company employs the Employee to serve in an executive and managerial capacity, and Employee accepts such employment and agrees to perform such reasonable responsibilities and duties commensurate with the aforesaid position as set forth in the Articles of Incorporation and Bylaws of the Company and as directed by the Company's President.

3. *Term.* The term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years ending on the third (3rd) anniversary of the Effective Date, subject

to prior termination as set forth in Section 8, below (the "Term"). The Term may be extended at any time upon mutual agreement of the parties.

4. *Salary.* During the Term, the Company shall pay the Employee a minimum base annual salary, before deducting all applicable withholdings, of \$400,000 per year, payable at the times and in the manner dictated by the Company's standard payroll policies. Such minimum base annual salary may be periodically reviewed and increased (but not decreased) at the discretion of the Company to reflect, among other matters, cost of living increases and performance results.

5. *Other Compensation and Fringe Benefits.* In addition to any bonus, pension, deferred compensation and other plans that the Company may from time to time make available to the Employee upon mutual agreement, including the ability to qualify for the Chairman's Roundtable, the Employee shall be entitled to the following:

- (a) The standard Company benefits available to other executives of the Company;
- (b) an annual incentive bonus opportunity ("Annual Bonus") for each calendar year included in the Term, with such opportunity to be earned based upon attainment of performance objectives established by the Compensation Committee (the "Committee") of the Board. For the year 2006, the bonus formula is set forth on Exhibit A attached hereto. The Employee's target Annual Bonus opportunity shall be not less than 150% of the Employee's Annual Base Salary. The Employee's target Annual Bonus opportunity may be periodically reviewed and increased (but not decreased without the Employee's express written consent) at the discretion of the Company. Subject to Section 8, the Annual Bonus shall become fully vested at the end of each calendar year within the Term and shall be paid no later than March 15th of the following year.; and
- (c) A grant of a non-qualified option to purchase 350,000 shares of the Company's Common Stock (the "Options"). The Options shall be granted pursuant to the Company's Stock Incentive Plan (the "Plan") and shall be subject to the terms and conditions of a stock option agreement and notice of stock option to be issued pursuant to the Plan. The Options will have an eight-year term and will be granted at an exercise price equal to the closing price per share of the Company's common stock as quoted on the New York Stock Exchange on the Effective Date. The Options will vest in four equal annual installments beginning on the first anniversary of the Effective Date and ending on the fourth anniversary of the Effective Date; provided, however, that all unvested Options will vest immediately if this Agreement expires because the Company elects not to extend the Term.

The Company shall deduct from all compensation payable to the Employee under this Agreement any taxes or withholdings the Company is required to deduct pursuant to state and federal laws or by mutual agreement between the parties.

6. *Vacation.* For and during each year of the Term and any extensions thereof, the Employee shall be entitled to reasonable paid vacation periods consistent with his position with the Company. In addition, the Employee shall be entitled to such holidays consistent with the Company's standard policies or as the Company's President may approve.

7. *Expense Reimbursement.* In addition to the compensation and benefits provided herein, the Company shall, upon receipt of appropriate documentation, reimburse the Employee each month for his reasonable travel, lodging, entertainment, promotion and other ordinary and necessary business expenses.

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8. *Termination.*

- (a) *For Cause.* The Company may terminate this Agreement immediately for cause upon written notice to the Employee, in which event the Company shall be obligated to pay the Employee that portion of the minimum base annual salary and any vested Annual bonus payment due him through the date of termination. Cause shall be limited to the Employee's (i) failure to perform duties consistent with a commercially reasonable standard of care; (ii) willful neglect of duties; (iii) conviction of or pleading nolo contondre to charges of criminal or other illegal activities involving dishonesty; or (iv) material breach of the Agreement.
- (b) *Without Cause.* Either party may terminate this Agreement immediately without cause by giving written notice to the other. If the Company terminates under this Section 8(b), then it shall pay to the Employee an amount equal to the Employee's minimum annual base salary in effect as of the date of termination for the remainder of the Term and, to the extent permitted by the terms of the option grant set forth in Section 5(c), the options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately. If the Employee terminates under this Section 8(b), the Company shall be obligated to pay the Employee the minimum annual base salary due him through the date of termination.
- (c) *Disability.* If the Employee fails to perform his duties hereunder on account of illness or other incapacity for a period of ninety consecutive days, then the Company shall have the right upon written notice to the Employee to terminate this Agreement without further obligation by paying the Employee the minimum base annual salary, without offset, for the remainder of the Term in a lump sum or as otherwise directed by the Employee.
- (d) *Death.* If the Employee dies during the Term, then this Agreement shall terminate immediately and the Employee's legal representatives shall be entitled to receive the minimum annual base salary for the remainder of the Term in a lump sum or as otherwise directed by the Employee's legal representative.
- (e) *Effect of Termination.* Termination for Cause or Without Cause shall not constitute a waiver of the Company's right under this Agreement nor a release of the Employee from any obligation hereunder except his obligation to perform his day-to-day duties as an employee.

9. *Severance Payment.*

- (a) The Employee may terminate his employment hereunder for "Good Reason," which for purposes of this Agreement shall mean a "change in control of the Company." A "change in control of the Company," for purposes of this Agreement, shall be deemed to have occurred if (i) there shall be consummated (x) any consolidation or merger of the Company other than a consolidation or merger of the Company in which the holders of the Company's Common Stock immediately prior to the merger own more than 50% of the voting securities of the surviving corporation immediately after the merger, or (y) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company, or (ii) the shareholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company, or (iii) any "person" (such as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act")), other than the Company or any "person" who, on the date hereof, is a director or officer of the Company, is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the

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Exchange Act), of securities of the Company representing 30% or more of the combined voting power of the Company's then outstanding securities. Notwithstanding anything herein to the contrary, an offering and sale to the public of any shares or equity securities of the Company or any of its subsidiaries pursuant to a registration statement in the United States shall not constitute a change of control for purposes of this Agreement. The Employee may only terminate this Agreement due to change in control of the Company during the period commencing 60 days and expiring 365 days after such change in control.

- (b) If the Employee terminates his employment for Good Reason, then:
 - (i) The Company shall pay the Employee his minimum base annual salary due him through the end of the Term; and
 - (ii) To the extent permitted by the terms of the option grant set forth in Section 5(c), the options granted to the Employee which had not vested as of the date of termination hereunder shall vest immediately.

10. *Non-Delegation of Employee's Rights.* The obligations, rights and benefits of the Employee hereunder are personal and may not be delegated, assigned or transferred in any manner whatsoever, nor are such obligations, rights or benefits subject to involuntary alienation, assignment or transfer.

11. *Confidential Information.* The Employee acknowledges that in his capacity as an executive officer and employee of the Company he will occupy a position of trust and confidence and he further acknowledges that he will have access to and learn substantial information about the Company, its affiliates and their operations that is confidential or not generally known in the industry including, without limitation, information that relates to purchasing, sales, customers, marketing, the Company's and its affiliates' financial positions and financing arrangements, trade secrets, valuable confidential business or professional information, substantial knowledge and information of the Company's and its affiliates' business, substantial relationships with specific prospective or existing customers or clients, customer or client goodwill, and other valuable information. The Employee agrees that all such information is proprietary or confidential, or constitutes trade secrets and is the sole property of the Company and/or its affiliates, as the case may be. The Employee will keep confidential, and will not reproduce, copy or disclose to any other person or firm, any such information or any documents or information relating to the Company's or its affiliates' methods, processes, customers, accounts, analyses, systems, charts, programs, procedures, correspondence or records, or any other documents used or owned by the Company or any of its affiliates, nor will the Employee advise, discuss with or in any way assist any other person, firm or entity in obtaining or learning about any of the items described in this Section 11. Accordingly, the Employee agrees that during the Term and at all times

thereafter he will not disclose, or permit or encourage anyone else to disclose, any such information, nor will he utilize any such information, either along or with others, outside the scope of his duties and responsibilities with the Company and its affiliates.

12. *Non-Competition During Employment Term.* The Employee agrees that, during the term and any extensions thereof, he will devote substantially all his business time and effort, and give undivided loyalty, to the Company and its affiliates. He will not engage in any way whatsoever, directly or indirectly, in any business that is competitive with the Company or its affiliates, nor solicit, or in any manner work for or assist any business which is competitive with the Company or its affiliates. In addition, during the Term and any extensions thereof, the Employee will undertake no planning for or organization of any business activity competitive with the work he performs as an employee of the Company, and the Employee will not combine or conspire with any other employee of the Company or any other person for the purpose of organizing any such competitive business activity.

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13. *Non-Competition After Employment Term.* The parties acknowledge that as an executive officer and employee of the Company the Employee will acquire trade secrets, valuable confidential business or professional information, substantial knowledge and information concerning the Company's and its affiliates' business, substantial relationships with specific prospective or existing customers or clients, customer or client goodwill, and other valuable information. The Employee acknowledges that these items, as well as others gained by him through his employment, constitute a legitimate business interest for the Company to protect through this restrictive covenant. The parties further acknowledge that the scope of business in which the Company and its affiliates are engaged as of the Effective Date is national and very competitive and one in which few companies can successfully compete. Competition by an executive officer such as the Employee in that business after this Agreement is terminated would severely injure the Company and its affiliates. Accordingly, for a period of one year after this Agreement is terminated or the Employee leaves the employment of the Company for any reason whatsoever, except as stated herein below, the Employee agrees (i) not to become an employee, consultant, advisor, principal, partner or substantial shareholder of any firm or business that in any way competes with the Company or its affiliates in any of its presently-existing or then-existing products or markets; and (ii) not to solicit any person or business that was at the time of such termination and remains a customer or prospective customer, or an employee of the Company or an affiliate. Notwithstanding any of the foregoing provisions to the contrary, the Employee shall not be subject to the restrictions set forth in this Section 13 under the following circumstances:

- (a) If the Employee's employment with the Company is terminated by the Company without cause;
- (b) If the Employee's employment with the Company is terminated as a result of the Company's unwillingness to extend the Term of this Agreement; or
- (c) If the Employee leaves the employment of the Company for Good Reason pursuant to Section 9, above.

14. *Return of Company Documents.* Upon termination of this Agreement, Employee shall return immediately to the Company all records and documents of or pertaining to the Company or its affiliates and shall not make or retain any copy or extract of any such record or document.

15. *Improvements and Inventions.* Any and all improvements or inventions, which the Employee may make or participate in during the period of his employment, shall be the sole and exclusive property of the Company. The Employee will, whenever requested by the Company, execute and deliver any and all documents which the Company shall deem appropriate in order to apply for and obtain patents for improvements or inventions or in order to assign and convey to the Company the sole and exclusive right, title and interest in and to such improvements, inventions, patents or applications.

16. *Actions.* The parties agree and acknowledge that the rights conveyed by this Agreement are of a unique and special nature and that the Company will not have an adequate remedy at law in the event of a failure by the Employee to abide by its terms and conditions nor will money damages adequately compensate for such injury. It is, therefore, agreed between the parties that, in the event of a breach by the Employee of any of his obligations contained in this Agreement, the Company shall have the right, among other rights, to damages sustained thereby and to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel the Employee to perform as agreed herein. The Employee agrees that this Section 16 shall survive the termination of his employment and he shall be bound by its terms at all times subsequent to the termination of his employment for so long a period as Company continues to conduct the same business or businesses as conducted during the Term or any extensions thereof. Nothing contained herein shall in any way limit or exclude any other right granted by law or equity to the Company.

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17. *Excise Tax Gross-up Payments.*

- (a) If any payments or benefits paid or provided or to be paid or provided to the Employee or for his benefit pursuant to the terms of this Agreement or otherwise in connection with, or arising out of, his employment with the Company or its subsidiaries or the termination thereof (a "Payment" and, collectively, the "Payments") would be subject to the excise tax (the "Excise Tax") imposed by Section 4999 of the Code, then, except as otherwise provided in this Section 17(a), the Employee will be entitled to receive an additional payment (a "Gross-Up Payment") in an amount such that, after payment by the Employee of all income taxes, all employment taxes and any Excise Tax imposed upon the Gross-Up Payment (including any related interest and penalties), the Employee retains an amount of the Gross-Up Payment equal to the Excise Tax (including any related interest and penalties) imposed upon the Payments. Notwithstanding the foregoing, if the amount of the Payments does not exceed by more than 3% the amount that would be payable to the Employee if the Payments were reduced to one dollar less than what would constitute a "parachute payment" under Section 280G of the Code (the "Scaled Back Amount"), then the Payments shall be reduced, in a manner determined by the Employee, to the Scaled Back Amount, and the Employee shall not be entitled to any Gross-Up Payment.
- (b) An initial determination of (i) whether a Gross-Up Payment is required pursuant to this Agreement, and, if applicable, the amount of such Gross-Up Payment or (ii) whether the Payments must be reduced to the Scaled Back Amount and, if so, the amount of such reduction, will be made at the Company's expense by an accounting firm selected by the Company. The accounting firm will provide its determination, together with detailed supporting calculations and documentation, to the Company and the Employee within ten (10) business days after the date of termination of Employee's employment, or such other time as may be reasonably requested by the Company or the Employee. If the accounting firm determines that no Excise Tax is payable by the Employee with respect to a Payment or Payments, it will furnish the Employee with an opinion to that effect. If a Gross-Up Payment becomes payable, such Gross-Up Payment will be paid by the Company to the Employee within thirty (30) business days of the receipt of the accounting firm's determination. If a reduction in Payments is required,

such reduction shall be effectuated within thirty (30) business days of the receipt of the accounting firm's determination. Within ten (10) business days after the accounting firm delivers its determination to the Employee, the Employee will have the right to dispute the determination. The existence of a dispute will not in any way affect the Employee's right to receive a Gross-Up Payment in accordance with the determination. If there is no dispute, the determination will be binding, final, and conclusive upon the Company and the Employee. If there is a dispute, the Company and the Employee will together select a second accounting firm, which will review the determination and the Employee's basis for the dispute and then will render its own determination, which will be binding, final, and conclusive on the Company and on the Employee for purposes of determining whether a Gross-Up Payment is required pursuant to this Section 17(b) or whether a reduction to the Scaled Back Amount is required, as the case may be. If as a result of any dispute pursuant to this Section 17(b) a Gross-Up Payment is made or additional Gross-Up Payments are made, such Gross-Up Payment(s) will be paid by the Company to the Employee within thirty (30) business days of the receipt of the second accounting firm's determination. The Company will bear all costs associated with the second accounting firm's determination, unless such determination does not result in additional Gross-Up Payments to the Employee or unless such determination does not mitigate the reduction in Payments required to arrive at the Scaled Back Amount, in which case all such costs will be borne by the Employee.

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- (c) For purposes of determining the amount of the Gross-Up Payment and, if applicable, the Scaled Back Amount, the Employee will be deemed to pay federal income taxes at the highest marginal rate of federal income taxation in the calendar year in which the Gross-Up Payment is to be made or the Scaled Back Amount is determined, as the case may be, and applicable state and local income taxes at the highest marginal rate of taxation in the state and locality of the Employee's residence on the date of termination of Employee's employment, net of the maximum reduction in federal income taxes that would be obtained from deduction of those state and local taxes.
 - (d) As a result of the uncertainty in the application of Section 4999 of the Code, it is possible that Gross-Up Payments which will not have been made by the Company should have been made, the Employee's Payments will be reduced to the Scaled Back Amount when they should not have been or the Employee's Payments are reduced to a greater extent than they should have been (an "Underpayment") or Gross-Up Payments are made by the Company which should not have been made, the Employee's Payments are not reduced to the Scaled Back Amount when they should have been or they are not reduced to the extent they should have been (an "Overpayment"). If it is determined that an Underpayment has occurred, the accounting firm shall determine the amount of the Underpayment that has occurred and any such Underpayment (together with interest at the rate provided in Section 1274(b)(2)(B) of the Code) shall be promptly paid by the Company to or for the benefit of Employee. If it is determined that an Overpayment has occurred, the accounting firm shall determine the amount of the Overpayment that has occurred and any such Overpayment (together with interest at the rate provided in Section 1274(b)(2) of the Code) shall be promptly paid by the Employee (to the extent he has received a refund if the applicable Excise Tax has been paid to the Internal Revenue Service) to or for the benefit of the Company; provided, however, that if the Company determines that such repayment obligation would be or result in an unlawful extension of credit under Section 13(k) of the Exchange Act, repayment shall not be required. The Employee shall cooperate, to the extent his expenses are reimbursed by the Company, with any reasonable requests by the Company in connection with any contest or disputes with the Internal Revenue Service in connection with the Excise Tax.
 - (e) The Employee shall notify the Company in writing of any claim by the Internal Revenue Service that, if successful, would require a payment resulting in an Underpayment. Such notification shall be given as soon as practicable but no later than ten (10) business days after the Employee is informed in writing of such claim and shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Employee shall not pay such claim prior to the expiration of the thirty (30) day period following the date on which he gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Employee in writing prior to the expiration of such period that it desires to contest such claim, the Employee shall:
 - (i) give the Company any information reasonably requested by the Company relating to such claim,
 - (ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by the Company,

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- (iii) cooperate with the Company in good faith in order effectively to contest such claim, and
 - (iv) permit the Company to participate in any proceeding relating to such claim;

provided, however, that the Company shall bear and pay directly all costs and expenses (including additional interest and penalties) incurred in connection with such contest and shall indemnify and hold the Employee harmless, on an after-tax basis, for any Excise Tax or income tax (including related interest and penalties) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 17(e), the Company shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the taxing authority in respect of such claim and may, at its sole option, either direct the Employee to pay the tax claimed and sue for a refund or contest the claim in any permissible manner, and the Employee agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts, as the Company shall determine; provided, however, that if the Company directs the Employee to pay such claim and sue for a refund, the Company shall advance the amount of such payment to the Employee, on an interest-free basis and shall indemnify and hold the Employee harmless, on an after-tax basis, from any Excise Tax or income tax (including related interest or penalties) imposed with respect to such advance or with respect to any imputed income with respect to such advance. The Company's control of the contest shall be limited to issues that may impact Gross-Up Payments or reduction in Payments under this Section 17, and the Employee shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(f) If, after the receipt by the Employee of an amount advanced by the Company pursuant to Section 17(e), the Employee becomes entitled to receive any refund with respect to such claim, the Employee shall (subject to the Company's complying with the requirements of Section 17(e)) promptly pay to the Company the amount of such refund (together with any interest paid or credited thereon after taxes applicable thereto). If, after the receipt by the Employee of an amount advanced by the Company pursuant to Section 17(e), a determination is made that the Employee shall not be entitled to any refund with respect to such claim and the Company does not notify the Employee in writing of its intent to contest such denial of refund prior to the expiration of thirty (30) days after such determination, then such advance shall be forgiven and shall not be required to be repaid.

18. *Entire Agreement and Amendment.* This Agreement embodies the entire agreement and understanding of the parties hereto in respect of the subject matter of this Agreement, and supersedes and replaces all prior agreements, understandings and commitments with respect to such subject matter, including, without limitation, the Prior Agreement. This Agreement may be amended only by a written document signed by both parties to this Agreement.

19. *Governing Law.* Florida law shall govern the construction and enforcement of this Agreement and the parties agree that any litigation pertaining to this Agreement shall be adjudicated in courts located in Florida.

20. *Attorneys' Fees.* If any party finds it necessary to employ legal counsel or to bring an action at law or other proceedings against the other party to enforce any of the terms hereof, the party prevailing in any such action or other proceeding shall be paid by the other party its reasonable attorneys' fees as well as court costs, all as determined by the court and not a jury.

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21. *Severability.* If any section, subsection or provision hereof is found for any reason whatsoever, to be invalid or inoperative, that section, subsection or provision shall be deemed severable and shall not affect the force and validity of any other provision of this Agreement. If any covenant herein is determined by a court to be overly broad thereby making the covenant unenforceable, the parties agree and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the covenant and that as so modified the covenant shall be as fully enforceable as if set forth herein by the parties themselves in the modified form. The covenants of the Employee in this Agreement shall each be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of the covenants in this Agreement.

22. *Notices.* Any notice, request or instruction to be given hereunder shall be in writing and shall be deemed given when personally delivered or three (3) days after being sent by the United States Certified Mail, postage prepaid, with Return Receipt Requested, to the parties at their respective addresses set forth below:

To the Company:	Certegy, Inc. 601 Riverside Avenue Jacksonville, Florida 32204 Attention: Peter T. Sadowski
To the Employee:	Jeffrey S. Carbiener

23. *Waiver of Breach.* The Waiver by any party of any provisions of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach by the other party.

24. *Successors.* In addition to any obligations imposed by law upon any successor to the Company, the Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company, to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company as herein before defined and any such successor that expressly assumes this Agreement or otherwise becomes bound by all the terms and provisions of this Agreement by operation of law.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective as of the date first set forth above.

CERTEGY, INC.

By: /s/ WALTER M. KORCHUN
Its: *Executive Vice President, General Counsel
and Secretary*

JEFFREY S. CARBIENER

/s/ JEFFREY S. CARBIENER

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