
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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) July 25, 2005

NATIONAL VISION, INC.

(Exact Name of Registrant as Specified in Charter)

Georgia

(State or Other Jurisdiction
of Incorporation)

001-16635

(Commission
File Number)

58-1910859

(IRS Employer
Identification No.)

296 Grayson Highway, Lawrenceville, Georgia

(Address of Principal Executive Offices)

30045

(Zip Code)

Registrant's telephone number, including area code: **(770) 822-3600**

Not Applicable

(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. below):

- ☐ 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))
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TABLE OF CONTENTS

[ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT](#)

[ITEM 8.01 OTHER EVENTS](#)

[ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS](#)

[SIGNATURES](#)

[EX-2.1 AGREEMENT AND PLAN OF MERGER](#)

[EX-2.2 SHARE PURCHASE AGREEMENT](#)

[EX-4.1 AMENDMENT TO RIGHTS AGREEMENT DATED AS OF JULY 25, 2005](#)

[EX-99.1 PRESS RELEASE DATED JULY 26, 2005](#)

ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

Berkshire Agreement

On July 26, 2005, National Vision, Inc. (the “Company”) announced that it entered into a definitive agreement (the “Berkshire Agreement”) to be acquired by Berkshire Partners LLC (“Berkshire”). Pursuant to the terms of the merger agreement, Vision Acquisition Corp., an affiliate of Berkshire Partners (“Vision”), will commence a cash tender offer to acquire all outstanding shares of the Company’s common stock at a price of \$7.25 per share in cash. Following the offer, the Berkshire Agreement contemplates that Vision will be merged with the Company and, in connection therewith, shares not tendered in the offer would be converted into a right to receive \$7.25 in cash. The Berkshire Agreement also contemplates that the Company’s existing senior notes due 2009 will be redeemed at par.

Consummation of the tender offer is subject to the completion of the Company’s acquisition of Consolidated Vision Group (described below), the tender of at least 67% of the Company’s fully diluted shares, and other customary conditions. Vision retains the right to waive the minimum tender requirement if fewer than 67% (but at least a majority) of the Company’s outstanding shares are tendered. The Company’s Board of Directors and a Special Committee of independent members of the Company’s Board of Directors approved the terms of the tender offer and merger and recommended that the shareholders of the Company accept the offer. The Berkshire Agreement contains certain termination rights for both Berkshire and the Company, including a provision which would allow the Board of Directors of the Company to terminate the Berkshire Agreement in order to enter into a definitive agreement with respect to an unsolicited superior transaction proposed by another party. If the Company’s Board of Directors exercises its right to terminate the Berkshire Agreement to enter into an alternative transaction, and in certain other circumstances set out in the Berkshire Agreement, the Company would be required to pay a \$1.6 million break up fee to Berkshire. If the Company terminates the Berkshire Agreement, unless such termination is due to Vision’s breach, the Company will be required to reimburse Vision for its expenses, up to \$2 million. In no event will the combined amount of the breakup fee and expense reimbursement payments exceed \$2.6 million in the aggregate. No assurance can be given that the conditions to closing the transactions contemplated by the Berkshire Agreement will be satisfied, or that the transactions ultimately will be consummated.

The Special Committee has received an opinion from its financial advisor, TM Capital Corp., to the effect that the consideration proposed to be paid to the shareholders in the transaction is fair, from a financial point of view, to such shareholders.

Pursuant to the Berkshire Agreement, the Company may not participate in discussions regarding any competing offer to acquire its stock or assets, except under certain circumstances described in the Berkshire Agreement in order to comply with its fiduciary duties. The Company intends to file a Schedule 14D-9 Recommendation Statement with the Securities and Exchange Commission relating to the transaction.

The above description of the Berkshire Agreement does not purport to be complete and is qualified in its entirety by reference to the Berkshire Agreement, which is attached hereto as Exhibit 2.1 and incorporated herein by reference. The Berkshire Agreement contains representations and warranties that the parties made to each other as of specific dates. The assertions embodied in those representations and warranties were made solely for purposes of the Berkshire Agreement and may be subject to important qualifications and limitations agreed to by the parties in connection with negotiating its terms. Moreover, certain representations and warranties may not be accurate or complete as of any specified date because they are subject to a contractual standard of materiality different from those generally applicable to shareholders or were used for the purpose of allocating risk between the parties rather than establishing matters as facts. For the foregoing reasons, you should not rely on the representations and warranties as statements of factual information.

Consolidated Vision Group Agreement

On July 26, 2005, the Company also announced an agreement to acquire all of the outstanding common stock of Consolidated Vision Group, Inc. (“CVG”) for approximately \$88 million, including debt repayment (the “CVG Agreement”). The Company’s acquisition of CVG has been approved unanimously by the boards of directors of the Company and CVG.

Pursuant to the CVG Agreement, the Company will pay approximately \$88 in cash, approximately \$48 of which will be used to repay debt and other obligations of CVG and the remainder of which will be paid to the CVG

[Table of Contents](#)

shareholders. The CVG acquisition, and the repayment of the Company's senior notes to occur in conjunction with the CVG acquisition, would be financed through a new credit facility arranged by Freeport Financial and a cash investment by Berkshire Partners. The Company would be obligated to pay a break up fee to the CVG shareholders of \$4 million if the CVG acquisition fails to close by December 22, 2005 due to the Company's failure to close the contemplated financings. No assurance can be given that the conditions to closing the transactions contemplated by the CVG Agreement will be satisfied, or that the transactions ultimately will be consummated.

The above description of the CVG Agreement does not purport to be complete and is qualified in its entirety by reference to the CVG Agreement, which is attached hereto as Exhibit 2.2 and incorporated herein by reference. The CVG Agreement contains representations and warranties that the parties made to each other as of specific dates. The assertions embodied in those representations and warranties were made solely for purposes of the CVG Agreement and may be subject to important qualifications and limitations agreed to by the parties in connection with negotiating its terms. Moreover, certain representations and warranties may not be accurate or complete as of any specified date because they are subject to a contractual standard of materiality different from those generally applicable to shareholders or were used for the purpose of allocating risk between the parties rather than establishing matters as facts. For the foregoing reasons, you should not rely on the representations and warranties as statements of factual information.

The consummation of the Company's acquisition of CVG is conditioned upon the simultaneous closing of the tender offer by Vision for the Company's shares. The parties expect that the tender offer and acquisition of CVG will be completed during the third calendar quarter of 2005.

The press release issued by the Company on July 26, 2005 relating to the Berkshire Agreement and the CVG Agreement is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Amendment to Rights Agreement

On July 25, 2005, the parties amended the Rights Agreement dated as of January 17, 1997 between the Company and American Stock Transfer and Trust Company, as amended, to provide that the acquisition of the Company's stock by Vision pursuant to the tender offer described above will not trigger a shareholder's right to exercise any Rights.

ITEM 8.01 OTHER EVENTS

On July 26, 2005, the Company issued a press release, attached as Exhibit 99.1 hereto, relating to the Berkshire Agreement and the CVG Agreement. The release is hereby incorporated herein by this reference.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(c) Exhibits.

Exhibit No.	Description
2.1	Agreement and Plan of Merger dated as of July 25, 2005 among Vision Holding Corp., Vision Acquisition Corp. and the Registrant
2.2	Share Purchase Agreement by and among Consolidated Vision Group, Inc., et al. and the Registrant dated as of July 25, 2005
4.1	Amendment to Rights Agreement dated as of July 25, 2005
99.1	Press Release dated July 26, 2005, titled "Berkshire Partners LLC to Acquire National Vision, Inc. for \$7.25 per Share; National Vision to Acquire Consolidated Vision Group for \$88 million, including Debt Repayment"

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.

**NATIONAL VISION, INC.
(Registrant)**

By: /s/ Mitchell Goodman
Mitchell Goodman
Senior Vice President and General Counsel

Date: July 26, 2005

AGREEMENT AND PLAN OF MERGER

DATED AS OF JULY 25, 2005,

AMONG

Vision Holding Corp.,

Vision Acquisition Corp.,

AND

National Vision, Inc.

TABLE OF CONTENTS

ARTICLE I	THE OFFER AND THE MERGER.....	1
Section 1.01.	The Offer.....	1
Section 1.02.	Company Actions.....	4
Section 1.03.	The Merger.....	5
Section 1.04.	Closing.....	5
Section 1.05.	Effective Time.....	5
Section 1.06.	Effects.....	5
Section 1.07.	Certificate of Incorporation and By-laws.....	6
Section 1.08.	Directors.....	6
Section 1.09.	Officers.....	6
ARTICLE II	EFFECT ON THE CAPITAL STOCK OF THE CONSTITUENT CORPORATIONS; EXCHANGE OF CERTIFICATES.....	6
Section 2.01.	Effect on Capital Stock.....	6
Section 2.02.	Exchange of Certificates.....	7
ARTICLE III	REPRESENTATIONS AND WARRANTIES OF THE COMPANY.....	9
Section 3.01.	Organization, Standing and Power.....	9
Section 3.02.	Company Subsidiaries; Equity Interests.....	10
Section 3.03.	Capital Structure.....	10
Section 3.04.	Authority; Execution and Delivery; Enforceability.....	11
Section 3.05.	No Conflicts; Consents.....	12
Section 3.06.	SEC Documents; Undisclosed Liabilities.....	13
Section 3.07.	Information Supplied.....	14
Section 3.08.	Absence of Certain Changes or Events.....	14
Section 3.09.	Taxes.....	15
Section 3.10.	Absence of Changes in Benefit Plans.....	16
Section 3.11.	ERISA Compliance; Excess Parachute Payments.....	17
Section 3.12.	Litigation.....	18
Section 3.13.	Compliance with Applicable Laws.....	18
Section 3.14.	Contracts; Debt Instruments.....	19
Section 3.15.	Intellectual Property.....	19
Section 3.16.	Certain Notes Receivable.....	20

Section 3.17.	Brokers; Schedule of Fees and Expenses.....	20
Section 3.18.	Opinion of Financial Advisor.....	20
ARTICLE IV	REPRESENTATIONS AND WARRANTIES OF PARENT AND SUB.....	21
Section 4.01.	Organization, Standing and Power.....	21
Section 4.02.	Sub.....	21
Section 4.03.	Authority; Execution and Delivery; Enforceability.....	21
Section 4.04.	No Conflicts; Consents.....	21
Section 4.05.	Information Supplied.....	22
Section 4.06.	Brokers.....	22
Section 4.07.	Financial Ability to Perform.....	22
Section 4.08.	Litigation.....	23
ARTICLE V	COVENANTS RELATING TO CONDUCT OF BUSINESS.....	23
Section 5.01.	Conduct of Business.....	23
Section 5.02.	No Solicitation.....	25
Section 5.03.	CVG Agreement.....	27
ARTICLE VI	ADDITIONAL AGREEMENTS.....	27
Section 6.01.	Preparation of Proxy Statement; Stockholders Meeting.....	27
Section 6.02.	Access to Information; Confidentiality.....	28
Section 6.03.	Reasonable Efforts; Notification.....	29
Section 6.04.	Stock Options.....	30
Section 6.05.	Benefit Plans.....	31
Section 6.06.	Indemnification.....	31
Section 6.07.	Fees and Expenses.....	32
Section 6.08.	Public Announcements.....	33
Section 6.09.	Transfer Taxes.....	33
Section 6.10.	Directors.....	34
Section 6.11.	Rights Agreement; Consequences if Rights Triggered.....	34
Section 6.12.	Stockholder Litigation.....	35
Section 6.13.	Parent Loan to Company.....	35
Section 6.14.	Indenture.....	35
ARTICLE VII	CONDITIONS PRECEDENT.....	35
Section 7.01.	Conditions to Each Party's Obligation To Effect The Merger.....	35

ARTICLE VIII	TERMINATION, AMENDMENT AND WAIVER.....	36
Section 8.01.	Termination.....	36
Section 8.02.	Effect of Termination.....	37
Section 8.03.	Amendment.....	38
Section 8.04.	Extension; Waiver.....	38
Section 8.05.	Procedure for Termination, Amendment, Extension or Waiver.....	38
ARTICLE IX	GENERAL PROVISIONS.....	39
Section 9.01.	Nonsurvival of Representations and Warranties.....	39
Section 9.02.	Notices.....	39
Section 9.03.	Definitions.....	40
Section 9.04.	Interpretation; Disclosure Letters.....	40
Section 9.05.	Severability.....	41
Section 9.06.	Counterparts.....	41
Section 9.07.	Entire Agreement; Third-Party Beneficiaries.....	41
Section 9.08.	Governing Law.....	41
Section 9.09.	Assignment.....	41
Section 9.10.	Enforcement.....	41
Section 9.11.	Consents.....	42

AGREEMENT AND PLAN OF MERGER dated as of July 25, 2005, among Vision Holding Corp., a Delaware corporation ("Parent"), Vision Acquisition Corp., a Georgia corporation ("Sub") and a wholly owned subsidiary of Parent, and National Vision, Inc., a Georgia corporation (the "Company").

WHEREAS the respective Boards of Directors of Parent, Sub and the Company (in the case of the Company, acting on the recommendation of a special committee appointed by the Board of Directors of the Company (the "Special Committee")) have approved the acquisition of the Company by Parent on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, in furtherance of such acquisition, Parent proposes to cause Sub to make a tender offer (as it may be amended from time to time as permitted under this Agreement, the "Offer") to purchase all the outstanding shares of common stock, par value \$0.01 per share, of the Company (the "Company Common Stock"), including the associated Company Rights (as defined in Section 3.03), at a price per share of Company Common Stock (including the associated Company Right) of \$7.25 (the "Offer Price"), net to the seller in cash, on the terms and subject to the conditions set forth in this Agreement;

WHEREAS the respective Boards of Directors of Parent, Sub and the Company (in the case of the Company, acting on the recommendation of the Special Committee) have approved the merger (the "Merger") of Sub into the Company, or (at the election of Parent) the Company into Sub, on the terms and subject to the conditions set forth in this Agreement, whereby each issued share of Company Common Stock not owned directly by Parent or the Company, other than Appraisal Shares (as defined in Section 2.01(d)), shall be converted into the right to receive the highest per share cash consideration paid pursuant to the Offer; and

WHEREAS Parent, Sub and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Offer and the Merger and also to prescribe various conditions to the Offer and the Merger.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

THE OFFER AND THE MERGER

Section 1.01 The Offer.

(a) Commencement and Expiration of the Offer. Subject to the conditions of this Agreement, as promptly as practicable after the date of this Agreement (but in no event later than five business days after the public announcement of this Agreement), Sub shall, and Parent shall cause Sub to, commence the Offer within the meaning of the applicable rules and regulations of the Securities and Exchange Commission (the "SEC"). The obligation of Sub to, and of Parent to cause Sub to, commence the Offer and accept for payment, and pay for, any shares of Company Common Stock tendered pursuant to the Offer are subject to the conditions set forth in Exhibit A. The initial expiration date of the Offer shall be at 12:00 midnight on the 20th business day following the commencement of the Offer (determined using Rules 14d-1(g)(3) and 14d-2 promulgated under the Securities Exchange Act of 1934, as amended (the

"Exchange Act")). Sub expressly reserves the right to waive any condition to the Offer or modify the terms of the Offer, except that, without the consent of the Company, Sub shall not and Parent shall not permit Sub to (i) reduce the number of shares of Company Common Stock subject to the Offer, (ii) reduce the price per share of Company Common Stock to be paid pursuant to the Offer, (iii) modify in any manner adverse to the holders of Company Common Stock or add to the conditions set forth in Exhibit A, (iv) except as provided in Section 1.01(b), extend the Offer, (v) change the form of consideration payable in the Offer or (vi) waive the Minimum Tender Condition, unless more than 50% of the Shares outstanding on the expiration date of the Offer shall have been tendered and not withdrawn.

(b) Sub's Ability to Extend the Offer. Notwithstanding the provisions of Section 1.01(a), Sub may, without the consent of the Company, (A) if at the scheduled or any extended expiration date of the Offer (whether extended pursuant to this clause (A) or otherwise) any of the conditions to Sub's obligation to purchase shares of Company Common Stock are not satisfied or waived, extend the Offer for such period as Sub determines; provided that such extension shall be in increments of not more than ten (10) business days if all of the conditions set forth in Exhibit A other than the Minimum Tender Condition have been satisfied or waived at such scheduled or extended expiration date, (B) extend the Offer for any period required by any rule, regulation, interpretation or position of the SEC or the staff thereof applicable to the Offer and (C) if at the scheduled or any extended expiration date of the Offer all of the conditions set forth in Exhibit A have been satisfied or waived, Sub may extend the Offer pursuant to an amendment to the Offer providing for a "subsequent offering period" not to exceed twenty (20) business days to the extent permitted under, and in compliance with, Rule 14d-11 under the Exchange Act.

(c) Company's Ability to Extend the Offer.

(i) In the event that the Minimum Tender Condition has not been satisfied or waived at the scheduled expiration date of the Offer, at the request of the Company, Sub shall, and Parent shall cause Sub to, extend the expiration date of the Offer in such increments as Sub may determine until the earliest to occur of (w) the satisfaction or waiver of such condition, (x) Parent reasonably determines, after the date that is 90 days from the date of commencement of the Offer, that such condition to the Offer is not capable of being satisfied on or prior to the Outside Date (as defined in Section 8.01(b)(i)), (y) the termination of this Agreement in accordance with its terms and (z) the Outside Date.

(ii) In the event that a filing with respect to the transactions contemplated by this Agreement is required under the HSR Act, and in the event that, following such filing, the waiting period under the HSR Act applicable to the purchase of shares of the Company Common Stock pursuant to the Offer shall not have expired or been terminated at the scheduled expiration date of the Offer, at the request of the Company, Sub shall, and Parent shall cause Sub to, extend the expiration date of the Offer in such increments as Sub may determine until the earliest to occur of (a) the expiration or termination of such waiting period, (b) the termination of this Agreement in accordance with its terms and (c) the Outside Date.

(iii) In the event that a failure to satisfy the conditions in subsection (f) of Exhibit A attached hereto shall exist and the cure period described therein shall not have

expired at the scheduled expiration date of the Offer, at the request of the Company, Sub shall, and Parent shall cause Sub to, extend the expiration date of the Offer in such increments as Sub may determine, but not greater than ten (10) days, until the earliest to occur of (w) the cure of such failure, (x) the expiration of such cure period, (y) the termination of this Agreement in accordance with its terms and (z) the Outside Date.

(iv) In the event a notice contemplated by Section 8.05(b)(iii) is delivered to Parent within three business days of the initial expiration date of the Offer, then Sub shall extend the Offer for a period of not less than three business days.

(d) Top Up Option.

(i) The Company hereby grants to Parent and Sub an irrevocable option (the "Top Up Option") to purchase up to 1,086,673 newly issued shares of Company Common Stock (the "Top Up Shares") for a consideration per Top Up Share equal to the Offer Price.

(ii) Such Top Up Option shall be exercisable only in the event that more than 50% of the shares of Company Common Stock outstanding on the expiration date of the Offer shall have been tendered and not withdrawn, and then only to the extent necessary to cause Sub to own 67%, 80%, or 90%, as applicable, of the shares of Company Common Stock outstanding on the expiration date of the Offer, after such issuance. Such Top Up Option shall not be exercisable if the number of shares of Company Common Stock subject thereto exceeds the number of authorized shares of Company Common Stock available for issuance.

(iii) In the event Parent and Sub wish to exercise the Top Up Option, Parent shall cause Sub to provide the Company with one-day prior written notice specifying the number of shares of Company Common Stock that are or will be owned by Parent, Sub and their affiliates immediately following consummation of the Offer and specifying a place and a time for the closing of such purchase. The Company shall, promptly following receipt of such notice, deliver written notice to Sub specifying the number of Top Up Shares. At the closing of the purchase of the Top Up Shares, the portion of the purchase price owing upon exercise of such Top Up Option which equals the product of (x) the number of shares of Company Common Stock purchased pursuant to such Top Up Option, multiplied by (y) the Offer Price, shall be paid to the Company in cash by wire transfer of immediately available funds or by cashier's check.

(e) Payment Acceptance. On the terms and subject to the conditions of the Offer and this Agreement, Parent shall cause Sub to accept for payment and pay for all shares of Company Common Stock validly tendered and not withdrawn pursuant to the Offer that Sub becomes obligated to purchase pursuant to the Offer promptly after the expiration of the Offer.

(f) SEC Filings. On the date of commencement of the Offer, Parent and Sub shall file with the SEC a Tender Offer Statement on Schedule TO with respect to the Offer, which shall contain an offer to purchase and a related letter of transmittal and summary advertisement (such Schedule TO and the documents included therein pursuant to which the Offer will be made, together with any supplements or amendments thereto, the "Offer Documents"). Each of Parent, Sub and the Company shall promptly correct any information

provided by it for use in the Offer Documents if and to the extent that such information shall have become false or misleading in any material respect, and each of Parent and Sub shall take all steps necessary to amend or supplement the Offer Documents and to cause the Offer Documents as so amended or supplemented to be filed with the SEC and to be disseminated to the Company's stockholders, in each case as and to the extent required by applicable Federal securities laws. Parent and Sub shall give the Company and its counsel a reasonable opportunity to review and comment on the Offer Documents prior to their being filed with the SEC or disseminated to the stockholders of the Company. Parent and Sub shall provide the Company and its counsel in writing with any comments. Parent, Sub or their counsel may receive from the SEC or its staff with respect to the Offer Documents promptly after the receipt of such comments and shall provide the Company and its counsel with a reasonable opportunity to participate in the response of Parent or Sub to such comments.

(g) Funding Obligations. Parent shall provide or cause to be provided to Sub on a timely basis the funds necessary to purchase any shares of Company Common Stock that Sub becomes obligated to purchase pursuant to the Offer.

Section 1.02 Company Actions.

(a) Subject to Section 5.02(b), the Company hereby approves of and consents to the Offer, the Merger and the other transactions contemplated by this Agreement (collectively, the "Transactions").

(b) On the date the Offer Documents are filed with the SEC, the Company shall file with the SEC a Solicitation/Recommendation Statement on Schedule 14D-9 with respect to the Offer (such Schedule 14D-9, as amended and supplemented from time to time, the "Schedule 14D-9"), describing the recommendations referred to in Section 3.04(b), or any permitted withdrawal or modification in accordance with Section 5.02(b), and shall mail the Schedule 14D-9 to the holders of Company Common Stock. Each of the Company, Parent and Sub shall promptly correct any information provided by it for use in the Schedule 14D-9 if and to the extent that such information shall have become false or misleading in any material respect, and the Company shall take all steps necessary to amend or supplement the Schedule 14D-9 and to cause the Schedule 14D-9 as so amended or supplemented to be filed with the SEC and disseminated to the Company's stockholders, in each case as and to the extent required by applicable Federal securities laws. The Company shall provide Parent and its counsel in writing with any comments the Company or its counsel may receive from the SEC or its staff with respect to the Schedule 14D-9 promptly after the receipt of such comments.

(c) In connection with the Offer, the Company shall cause its transfer agent to promptly furnish Sub with mailing labels containing the names and addresses of the record holders of Company Common Stock as of a recent date and of those persons becoming record holders subsequent to such date, together with copies of all lists of stockholders, security position listings and computer files and all other information as Sub may reasonably request in the Company's possession or control regarding the beneficial owners of Company Common Stock, and shall furnish to Sub such information and assistance (including updated lists of stockholders, security position listings and computer files) as Parent may reasonably request in communicating the Offer to the Company's stockholders. Subject to the requirements of applicable Law (as

defined in Section 3.05), and except for such steps as are necessary to disseminate the Offer Documents and any other documents necessary to consummate the Transactions, Parent and Sub shall hold in confidence pursuant to the Confidentiality Agreement (as defined in Section 6.02) the information contained in any such labels, listings and files, shall use such information only for the purpose of communicating the Offer and disseminating any other documents necessary to consummate the Offer, the Merger and the other Transactions and, if this Agreement shall be terminated, shall, upon request, deliver to the Company all copies of such information then in their possession.

Section 1.03 The Merger. On the terms and subject to the satisfaction or waiver of the conditions set forth in this Agreement, and in accordance with the Georgia Business Corporation Code (the "GBCC"), Sub shall be merged with and into the Company at the Effective Time (as defined in Section 1.05). At the Effective Time, the separate corporate existence of Sub shall cease and the Company shall continue as the surviving corporation (the "Surviving Corporation"). The Surviving Corporation shall possess all the rights, privileges, immunities, powers and franchises of the Company and Sub, and the Surviving Corporation shall by operation of law become liable for all of the debts, liabilities and duties of the Company and Sub. The name of the Surviving Corporation shall be National Vision, Inc. and the purpose thereof shall be as set forth in Section 2 of the Certificate of Incorporation of the Surviving Corporation. Notwithstanding the foregoing, Parent may elect at any time after the expiration of the Offer and prior to the Merger, instead of merging Sub into the Company as provided above, to merge the Company with and into Sub; provided, however, that the Company shall not be deemed to have breached any of its representations, warranties or covenants set forth in this Agreement solely by reason of such election. In such event, the parties shall execute an appropriate amendment to this Agreement to reflect the foregoing. At the election of Parent, any direct or indirect wholly owned subsidiary of Parent may be substituted for Sub as a constituent corporation in the Merger. In such event, the parties shall execute an appropriate amendment to this Agreement in order to reflect the foregoing.

Section 1.04 Closing. The closing (the "Closing") of the Merger shall take place at the offices of Weil, Gotshal & Manges, LLP, 100 Federal Street, Boston, Massachusetts 02110 at 10:00 a.m. on the second business day following the satisfaction (or, to the extent permitted by Law, waiver by all parties) of the conditions set forth in Article VII hereof, or at such other place, time and date as shall be agreed in writing between Parent and the Company. The date on which the Closing occurs is referred to in this Agreement as the "Closing Date".

Section 1.05 Effective Time. Prior to the Closing, Parent shall prepare and give the Company and its counsel the opportunity to review, and on the Closing Date or as soon as practicable thereafter Parent shall file with the Secretary of State of the State of Georgia, a certificate of merger or other appropriate documents (in any such case, the "Certificate of Merger") executed in accordance with the relevant provisions of the GBCC and shall make all other filings or recordings required under the GBCC. The Merger shall become effective at such time as the Certificate of Merger is duly filed with such Secretary of State, or at such other time as Parent and the Company shall agree and specify in the Certificate of Merger (the time the Merger becomes effective being the "Effective Time").

Section 1.06 Effects. The Merger shall have the effects set forth in Section 14-2-1106 of the GBCC.

Section 1.07 Certificate of Incorporation and By-laws.

(a) The Certificate of Incorporation of Sub as in effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable Law.

(b) The By-laws of Sub as in effect immediately prior to the Effective Time shall be the By-laws of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable Law.

Section 1.08 Directors. At the Closing, Parent shall designate the directors of the Surviving Corporation and such directors shall hold office until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be.

Section 1.09 Officers. At the Closing, Parent shall designate the officers of the Surviving Corporation and such officers shall hold office until the earlier of their resignation or removal or until their respective successors are duly elected or appointed and qualified, as the case may be.

ARTICLE II

EFFECT ON THE CAPITAL STOCK OF THE
CONSTITUENT CORPORATIONS; EXCHANGE OF CERTIFICATES

Section 2.01 Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the holder of any shares of Company Common Stock or any shares of capital stock of Sub:

(a) Capital Stock of Sub. Each issued and outstanding share of capital stock of Sub shall be converted into and become a number of fully paid and non-assessable shares of common stock, par value \$0.01 per share, of the Surviving Corporation ("Surviving Corporation Common Stock") equal to (i) the number of shares of Company Common Stock outstanding immediately prior to Effective Time (excluding any shares of Company Common Stock that are owned by any subsidiary of the Company or Parent other than Sub) divided by (ii) 1,000; provided, however, that if the aggregate number of shares of Surviving Corporation Common Stock into which the capital stock of Sub is to be converted pursuant to this Section 2.01(a) is not a whole number, such number shall be rounded up to the next higher whole number.

(b) Cancellation of Treasury Stock and Parent-Owned Stock. Each share of Company Common Stock that is owned directly by the Company, Parent or Sub shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and no other consideration shall be delivered or deliverable in exchange therefor.

(c) Conversion of Company Common Stock.

(i) Subject to Sections 2.01(b) and 2.01(d), each issued share of Company Common Stock shall be converted into the right to receive in cash the highest price per share of Company Common Stock paid pursuant to the Offer.

(ii) The cash payable upon the conversion of shares of Company Common Stock pursuant to this Section 2.01(c) is referred to collectively as the "Merger Consideration". As of the Effective Time, all such shares of Company Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares of Company Common Stock shall cease to have any rights with respect thereto, except the right to receive Merger Consideration upon surrender of such certificate in accordance with Section 2.02, without interest.

(d) Appraisal Rights. Notwithstanding anything in this Agreement to the contrary, shares (the "Appraisal Shares") of Company Common Stock that are outstanding immediately prior to the Effective Time and that are held by any person who is entitled to demand and properly demands appraisal of such Appraisal Shares pursuant to, and who complies in all respects with, Article 13 of the GBCC (the "Appraisal Provisions") shall be entitled to payment of the fair value of such Appraisal Shares in accordance with the Appraisal Provisions; provided, however, that if any such holder shall fail to perfect or otherwise shall waive, withdraw or lose the right to appraisal under the Appraisal Provisions, then the right of such holder to be paid the fair value of such holder's Appraisal Shares shall cease and such Appraisal Shares shall be deemed to have been converted as of the Effective Time into, and to have become exchangeable solely for the right to receive, Merger Consideration as provided in Section 2.01(c). The Company shall serve prompt notice to Parent of any demands received by the Company for appraisal of any shares of Company Common Stock, and Parent shall have the right to participate in all negotiations and proceedings with respect to such demands. Prior to the Effective Time, the Company shall not, without the prior written consent of Parent, make any payment with respect to, or settle or offer to settle, any such demands, or agree to do any of the foregoing.

Section 2.02 Exchange of Certificates.

(a) Paying Agent. Prior to the Effective Time, Parent shall select a bank or trust company in the United States to act as paying agent (the "Paying Agent") for the payment of the Merger Consideration upon surrender of certificates representing Company Common Stock. Parent shall take all steps necessary to enable and cause the Surviving Corporation to provide to the Paying Agent on a timely basis, as and when needed after the Effective Time, cash necessary to pay for the shares of Company Common Stock converted into the right to receive cash pursuant to Section 2.01(c) (such cash being hereinafter referred to as the "Exchange Fund"). If for any reason (including losses) the Exchange Fund is inadequate to pay the amounts to which holders of shares of Company Common Stock shall be entitled under this Section 2.02(a), Parent shall take all steps necessary to enable or cause the Surviving Corporation promptly to deposit in trust additional cash with the Paying Agent sufficient to make all payments required under this Agreement, and Parent and the Surviving Corporation shall in any event be liable for payment thereof. The Exchange Fund shall not be used for any purpose except as expressly provided in this Agreement.

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time, but in no event more than five (5) business days thereafter, the Surviving Corporation shall cause the Paying Agent to mail to each holder of record of a certificate or certificates (the "Certificates") that immediately prior to the Effective Time represented outstanding shares of Company Common Stock whose shares were converted into the right to receive Merger Consideration pursuant to Section 2.01, (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Paying Agent and shall be in such form and have such other provisions as Parent may reasonably specify) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for Merger Consideration. Upon surrender of a Certificate for cancellation to the Paying Agent, together with such letter of transmittal, duly executed, and such other documents as may reasonably be required by the Paying Agent, the holder of such Certificate shall be entitled to receive in exchange therefor the amount of cash into which the shares of Company Common Stock theretofore represented by such Certificate shall have been converted pursuant to Section 2.01, and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of Company Common Stock that is not registered in the transfer records of the Company, payment may be made to a person other than the person in whose name the Certificate so surrendered is registered, if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such payment shall pay any transfer or other taxes required by reason of the payment to a person other than the registered holder of such Certificate or establish to the satisfaction of Parent that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the amount of cash, without interest, into which the shares of Company Common Stock theretofore represented by such Certificate have been converted pursuant to Section 2.01. If any holder of shares of Company Common Stock shall be unable to surrender such holder's Certificates because such Certificates have been lost, mutilated or destroyed, such holder may deliver in lieu thereof an affidavit and indemnity bond in form and substance and with surety reasonably satisfactory to the Surviving Corporation. No interest shall be paid or accrue on the cash payable upon surrender of any Certificate.

(c) No Further Ownership Rights in Company Common Stock. The Merger Consideration paid in accordance with the terms of this Article II upon conversion of any shares of Company Common Stock shall be deemed to have been paid in full satisfaction of all rights pertaining to such shares of Company Common Stock, and after the Effective Time there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of shares of Company Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, any certificates formerly representing shares of Company Common Stock are presented to the Surviving Corporation or the Paying Agent for any reason, they shall be canceled and exchanged as provided in this Article II.

(d) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of Company Common Stock for six months after the Effective Time shall be delivered to Parent, upon demand, and any holder of Company Common Stock who has not theretofore complied with this Article II shall thereafter look only to Parent for payment of its claim for Merger Consideration.

(e) No Liability. None of Parent, Sub, the Company or the Paying Agent shall be liable to any person in respect of any cash from the Exchange Fund delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If any Certificate has not been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which Merger Consideration in respect of such Certificate would otherwise escheat to or become the property of any Governmental Entity (as defined in Section 3.05)), any such shares, cash, dividends or distributions in respect of such Certificate shall, to the extent permitted by applicable Law, become the property of the Surviving Corporation, free and clear of all claims or interest of any person previously entitled thereto.

(f) Investment of Exchange Fund. The Paying Agent shall invest any cash included in the Exchange Fund, as directed by Parent, on a daily basis. Any interest and other income resulting from such investments shall be paid to Parent.

(g) Withholding Rights. Parent shall be entitled to deduct and withhold from the consideration otherwise payable to any holder of Company Common Stock pursuant to this Agreement such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Code (as defined in Section 3.11(b)), or under any provision of state, local or foreign tax Law.

(h) Charges and Expenses. The Surviving Corporation shall pay all charges and expenses, including those of the Paying Agent, in connection with the exchange of cash for shares of Company Common Stock.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Parent and Sub as follows:

Section 3.01 Organization, Standing and Power. Each of the Company and each of its subsidiaries listed in the Company Disclosure Letter (as defined below) (the "Company Subsidiaries") is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and has all requisite corporate power and authority and possesses all governmental franchises, licenses, permits, authorizations and approvals, and has made all filings, registrations and declarations, in each case whether domestic or foreign, necessary to enable it to own, lease or otherwise hold its properties and assets and to conduct its businesses as presently conducted, in each case other than such franchises, licenses, permits, authorizations, approvals, filings, registrations and declarations the lack of which, individually or in the aggregate, has not had and would not reasonably be expected to have a material adverse effect on the Company and the Company Subsidiaries, taken as a whole, a material adverse effect on the ability of the Company to perform its obligations under this Agreement or a material adverse effect on the ability of the Company to consummate the Offer, the Merger and the other Transactions (a "Company Material Adverse Effect"). The Company and each Company Subsidiary is duly qualified to do business in each jurisdiction where the nature of its

business or their ownership or leasing of its properties make such qualification necessary except where the failure to so qualify has not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company has made available to Parent true and complete copies of the certificate of incorporation of the Company, as amended to the date of this Agreement (as so amended, the "Company Charter"), and the by-laws of the Company, as amended to the date of this Agreement (as so amended, the "Company By-laws"), and the comparable charter and organizational documents of each Company Subsidiary, in each case as amended through the date of this Agreement.

Section 3.02 Company Subsidiaries; Equity Interests.

(a) The letter, dated as of the date of this Agreement, from the Company to Parent and Sub (the "Company Disclosure Letter") lists each Company Subsidiary and its jurisdiction of organization. All the outstanding shares of capital stock of each Company Subsidiary have been validly issued and are fully paid and nonassessable and, except as set forth in the Company Disclosure Letter, are owned by the Company, by another Company Subsidiary or by the Company and another Company Subsidiary, free and clear of all pledges, liens, charges, mortgages, encumbrances and security interests of any kind or nature whatsoever (collectively, "Liens").

(b) Except for its interests in the Company Subsidiaries and except for the ownership interests set forth in the Company Disclosure Letter, the Company does not own, directly or indirectly, any capital stock, membership interest, partnership interest, joint venture interest or other equity interest in any person.

Section 3.03 Capital Structure. The authorized capital stock of the Company consists of 10,000,000 shares of Company Common Stock and 5,000,000 shares of preferred stock, par value \$1.00 per share ("Preferred Stock", and together with the Company Common Stock, the "Company Capital Stock"). At the close of business on July 15, 2005, (i) 5,460,668 shares of Company Common Stock were issued and outstanding, (ii) no shares of Company Common Stock were held by the Company in its treasury, (iii) 556,600 shares of Company Common Stock were subject to outstanding Company Stock Options (as defined in Section 6.04) and 182,926 additional shares of Company Common Stock were reserved for issuance pursuant to the Company Stock Plans (as defined in Section 6.04), and (iv) 500,000 shares of Preferred Stock were reserved for issuance in connection with the rights (the "Company Rights") issued pursuant to the Rights Agreement dated as of January 17, 1997 (as amended from time to time, the "Company Rights Agreement"), between the Company and Wachovia Bank of North Carolina, N.A., as Rights Agent. Except as set forth above, at the close of business on July 15, 2005, no shares of capital stock or other voting securities of the Company were issued, reserved for issuance or outstanding. Assuming completion of the Offer and the Merger prior to August 31, 2005, Company Stock Options to purchase not more than 556,600 shares of Company Common Stock will be exercisable, including any Company Stock Options exercisable as a result of the Offer and the Merger, at an exercise price equal to or less than \$2.38 per share of Company Common Stock (the "Vested Company Stock Options"). There are no outstanding stock appreciation rights linked to the price of Company Common Stock and granted under any Company Stock Plan. All outstanding shares of Company Capital Stock are, and all such shares that may be issued prior to the Effective Time will be when issued, duly authorized, validly

issued, fully paid and nonassessable and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the GBCC, the Company Charter, the Company By-laws or any Contract (as defined in Section 3.05) to which the Company is a party or otherwise bound. There are not any bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Company Common Stock may vote ("Voting Company Debt"). Except as set forth above or in the Company Disclosure Letter, as of the date of this Agreement, there are not any options, warrants, rights, convertible or exchangeable securities, "phantom" stock rights, stock appreciation rights, stock-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which the Company or any Company Subsidiary is a party or by which any of them is bound (i) obligating the Company or any Company Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other equity interests in, or any security convertible or exercisable for or exchangeable into any capital stock of or other equity interest in, the Company or of any Company Subsidiary or any Voting Company Debt, (ii) obligating the Company or any Company Subsidiary to issue, grant, extend or enter into any such option, warrant, call, right, security, commitment, Contract, arrangement or undertaking or (iii) that give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights occurring to holders of Company Capital Stock. As of the date of this Agreement, there are not any outstanding contractual obligations of the Company or any Company Subsidiary to repurchase, redeem or otherwise acquire any shares of capital stock of the Company or any Company Subsidiary. The Company has made available to Parent a complete and correct copy of the Company Rights Agreement, as amended to the date of this Agreement. The Company Disclosure Letter sets forth a true and complete list of the outstanding Company Stock Options, and the Vested Company Stock Options, together with the number of shares of Company Common Stock subject thereto and the exercise price thereof.

Section 3.04 Authority; Execution and Delivery; Enforceability.

(a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and, subject to the Company Stockholder Approval (as defined in Section 3.04(c)) with respect to the Merger if required by Law, to consummate the Transactions. The execution and delivery by the Company of this Agreement and the consummation by the Company of the Transactions have been duly authorized by all necessary corporate action on the part of the Company, subject, in the case of the Merger, to receipt of the Company Stockholder Approval (if required by Law). The Company has duly executed and delivered this Agreement, and this Agreement constitutes its legal, valid and binding obligation (subject to the Company Stockholder Approval with respect to the Merger if required by Law), enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and by the effect of the principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(b) The Board of Directors of the Company (the "Company Board"), at a meeting duly called and held, and upon recommendation of the Special Committee, duly and

unanimously adopted resolutions (i) approving this Agreement, the Offer, the Merger and the other Transactions, (ii) determining that the terms of the Offer and the Merger are fair, from a financial point of view, to the Company and its stockholders and that the Merger is advisable, (iii) recommending that the holders of Company Common Stock accept the Offer and tender their shares of Company Common Stock pursuant to the Offer and (iv) recommending that the Company's stockholders approve this Agreement. No further corporate action is required by the Board of Directors of the Company, pursuant to the GBCC or otherwise, in order for the Company to approve this Agreement or the transactions contemplated hereby. No state takeover statute or similar statute or regulation applies or purports to apply to the Company with respect to this Agreement, the Tender Agreements, the Offer, the Merger or any other Transaction. The Company has been advised by each of its directors that, as of the date of this Agreement, each such person intends to tender all shares of Company Common Stock owned by such person pursuant to the Offer, except to the extent of any restrictions created by Section 16(b) of the Exchange Act.

(c) The only vote of holders of any class or series of Company Capital Stock necessary to approve and adopt this Agreement and the Merger is the approval of this Agreement by the holders of a majority of the outstanding Company Common Stock and the approval of at least two-thirds of the votes cast by the holders of outstanding Company Common Stock (collectively, the "Company Stockholder Approval"). The affirmative vote of the holders of Company Capital Stock, or any of them, is not necessary to consummate the Offer or any Transaction other than the Merger.

Section 3.05 No Conflicts; Consents.

(a) Except as set forth in the Company Disclosure Letter, the execution and delivery by the Company of this Agreement do not, and the consummation of the Offer, the Merger and the other Transactions and compliance with the terms hereof will not, 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 to loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of the Company or any Company Subsidiary under, any provision of (i) the Company Charter, the Company By-laws or the comparable charter or organizational documents of any Company Subsidiary, (ii) any contract, lease, license, indenture, note, bond, agreement, permit, concession, franchise or other instrument filed as part of any Company SEC Document (as defined below) (a "Contract") to which the Company or any Company Subsidiary is a party or by which any of their respective properties or assets is bound or (iii) subject to the filings and other matters referred to in Section 3.05(b), any judgment, order, injunction or decree, domestic or foreign ("Judgment"), or statute, law (including common law), legislation, interpretation, ordinance, rule or regulation, domestic or foreign ("Law"), applicable to the Company or any Company Subsidiary or their respective properties or assets.

(b) No consent, approval, license, permit, order or authorization ("Consent") of, or registration, declaration or filing with, any Federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign (a "Governmental Entity") is required to be

obtained or made by or with respect to the Company or any Company Subsidiary in connection with the execution, delivery and performance of this Agreement or the consummation of the Transactions, other than (i) compliance with and filings, if necessary, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (ii) the filing with the SEC of (A) the Schedule 14D-9, (B) if required by Law, a proxy or information statement relating to the approval of this Agreement by the Company's stockholders (the "Proxy Statement"), (C) any information statement (the "Information Statement") required under Rule 14f-1 in connection with the Offer, and (D) such schedules or reports under Section 13 of the Exchange Act as may be required in connection with this Agreement, the Offer, the Merger and the other Transactions, (iii) the filing of the Certificate of Merger with the Secretary of State of the State of Georgia and appropriate documents with the relevant authorities of the other jurisdictions in which the Company is qualified to do business, (iv) such filings as may be required in connection with the taxes described in Section 6.09 and (vi) such other items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(c) The Company and the Company Board have taken all action necessary to (i) render the Company Rights inapplicable to this Agreement, the Offer, the Merger and the other Transaction and (ii) ensure that (A) neither Parent nor any of its stockholders, affiliates or associates is or will become an "Acquiring Person" (as defined in the Company Rights Agreement) by reason of this Agreement, the Offer, the Merger or any other Transaction), (B) a "Distribution Date" (as defined in the Company Rights Agreement) shall not occur by reason of this Agreement, the Offer, the Merger or any other Transaction and (C) the Company Rights shall expire immediately prior to the Effective Time.

Section 3.06 SEC Documents; Undisclosed Liabilities. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company with the SEC since January 1, 2003 (the "Company SEC Documents"). As of its respective date, each Company SEC Document complied in all material respects with the requirements of the Exchange Act or the Securities Act of 1933, as amended (the "Securities Act"), as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Document, and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of the date of this Agreement, the Company's Annual Report on Form 10-K for the fiscal year ended January 1, 2005 (filed on March 25, 2005) (the "2004 Form 10-K"), its Quarterly Reports on Form 10-Q for the quarter ended April 2, 2005 (filed on May 17, 2005) and its Current Reports on Form 8-K (filed on May 3, 2005 and May 17, 2005), together with any amendments to such reports filed with the SEC prior to the date hereof, taken together do 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 were made, not misleading. The consolidated financial statements of the Company included in the Company SEC Documents comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with generally accepted accounting principles ("GAAP") (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes

thereto) and fairly present the consolidated financial position of the Company and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). Except as set forth in the Filed Company SEC Documents (as defined in Section 3.08), neither the Company nor any Company Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) required by GAAP to be set forth on a consolidated balance sheet of the Company and its consolidated subsidiaries or in the notes thereto, other than liabilities or obligations incurred in the ordinary course of business consistent with prior practice since the date of the most recent financial statements included in the Filed Company SEC Documents. Except as set forth in the Company Disclosure Letter, neither the Company nor any Company Subsidiary is a party to any contract, arrangement or understanding with an affiliate of such party that is not disclosed in the Filed Company SEC Documents.

Section 3.07 Information Supplied. None of the information supplied or to be supplied by the Company for inclusion or incorporation by reference in (i) the Offer Documents, the Schedule 14D-9 or the Information Statement will, at the time such document is filed with the SEC, at any time it is amended or supplemented or at the time it is first published, sent or given to the Company's stockholders, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Proxy Statement (if required by Law) will, at the date it is first mailed to the Company's stockholders or at the time of the Company Stockholders Meeting (as defined in Section 6.01), 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 Schedule 14D-9, the Information Statement and the Proxy Statement (if required by Law) will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by the Company with respect to statements made or incorporated by reference therein based on information supplied by Parent or Sub for inclusion or incorporation by reference therein.

Section 3.08 Absence of Certain Changes or Events. Except as disclosed in the Company SEC Documents filed and publicly available prior to the date of this Agreement (the "Filed Company SEC Documents") or in the Company Disclosure Letter, from the date of the most recent audited financial statements included in the Filed Company SEC Documents to the date of this Agreement, the Company has conducted its business only in the ordinary course, and during such period there has not been:

(i) any event, change, effect or development that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect;

(ii) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, stock or property) with respect to any Company Capital Stock or any repurchase for value by the Company of any Company Capital Stock;

(iii) any split, combination or reclassification of any Company Capital Stock or any issuance or the authorization of any issuance of any other securities in respect of, in lieu of or in substitution for shares of Company Capital Stock;

(iv) (A) any granting by the Company or any Company Subsidiary to any current or former director, officer or employee of the Company or any Company Subsidiary of any increase in compensation, except (i) with respect to employees (other than directors, officers or key employees), in the ordinary course of business consistent with past practice, or (ii) to the extent required under employment agreements in effect as of the date of the most recent audited financial statements included in the Filed Company SEC Documents, (B) any granting by the Company or any Company Subsidiary to any such director, officer or employee of any material increase in severance or termination pay, except as was required under any employment, severance or termination policy, practice or agreements in effect as of the date of the most recent audited financial statements included in the Filed Company SEC Documents or (C) any entry by the Company or any Company Subsidiary into, or any amendment of, any employment, severance or termination agreement with any such director, officer or employee, except for such agreements or amendments with employees (other than directors, officers or key employees) that are entered into in the ordinary course of business consistent with prior practice;

(v) any termination of employment or departure of any officer or other key employee of the Company or any Company Subsidiary;

(vi) any change in accounting methods, principles or practices by the Company or any Company Subsidiary materially affecting the consolidated assets, liabilities or results of operations of the Company, except insofar as may have been required by a change in GAAP; or

(vii) any material elections with respect to Taxes (as defined in Section 3.09) by the Company or any Company Subsidiary or settlement or compromise by the Company or any Company Subsidiary of any material Tax liability or refund.

Section 3.09 Taxes.

(a) Each of the Company and each Company Subsidiary has timely filed, or has caused to be timely filed on its behalf, all Tax Returns required to be filed by it, and all such Tax Returns are true, complete and accurate, except to the extent any failure to file or any inaccuracies in any filed Tax Returns, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. All Taxes shown to be due on such Tax Returns, or otherwise owed, have been timely paid, except to the extent that any failure to pay, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) The most recent financial statements contained in the Filed Company SEC Documents reflect an adequate reserve (in accordance with GAAP) for all Taxes payable by the Company and the Company Subsidiaries for all Taxable periods and portions thereof through the date of such financial statements (in addition to any reserve for deferred Taxes established to reflect timing differences between book and tax income). No material deficiency with respect to

any Taxes has been proposed, asserted or assessed against the Company or any Company Subsidiary, and no requests for waivers of the time to assess any such Taxes are pending.

(c) The Federal income Tax Returns of the Company and each Company Subsidiary consolidated in such Returns have not, since January 1, 2000, (i) to the Company's knowledge, been examined by, or (ii) settled with, the United States Internal Revenue Service. All material assessments for Taxes due with respect to such completed and settled examinations or any concluded litigation have been fully paid.

(d) There are no material Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of the Company or any Company Subsidiary. Neither the Company nor any Company Subsidiary is bound by any agreement with respect to Taxes other than agreements between or among the Company and Company Subsidiaries and no other person.

(e) No claim has been made in the past five years by any authority in a jurisdiction within which the Company or any Company Subsidiary does not file Tax Returns that it is, or may be, subject to taxation by that jurisdiction.

(f) Neither the Company nor any Company Subsidiary has constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying or intended to qualify for tax-free treatment under Section 355 of the Code (A) in the two years prior to the date of this Agreement or (B) 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.

(g) For purposes of this Agreement:

"Taxes" includes all forms of taxation imposed by any Federal, state, local, foreign or other Governmental Entity, including income, franchise, property, sales, use, excise, employment, unemployment, payroll, social security, estimated, value added, ad valorem, transfer, recapture, withholding and other Taxes of any kind, including all interest, penalties and additions thereto.

"Tax Return" means all Federal, state, local, provincial and foreign Tax returns, declarations, statements, reports, schedules, forms and information returns and any amended Tax return relating to Taxes.

Section 3.10 Absence of Changes in Benefit Plans. Except as disclosed in the Filed Company SEC Documents or in the Company Disclosure Letter, from the date of the most recent audited financial statements included in the Filed Company SEC Documents to the date of this Agreement, there has not been any adoption or amendment in any material respect by the Company or any Company Subsidiary of any collective bargaining agreement or any bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other plan or arrangement providing benefits to any current or former employee, officer or director of the Company or any Company Subsidiary (collectively,

"Company Benefit Plans"). Except as disclosed in the Filed Company SEC Documents or in the Company Disclosure Letter, as of the date of this Agreement there are not any employment, consulting, indemnification, severance or termination agreements or arrangements in effect between the Company or any Company Subsidiary and any current or former employee, officer or director of the Company or any Company Subsidiary, nor does the Company or any Company Subsidiary have any general severance plan or policy.

Section 3.11 ERISA Compliance; Excess Parachute Payments.

(a) The Company Disclosure Letter contains a list and brief description of all material "employee pension benefit plans" (as defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) (sometimes referred to herein as "Company Pension Plans"), "employee welfare benefit plans" (as defined in Section 3(1) of ERISA) and all other Company Benefit Plans maintained, or contributed to, by the Company or any Company Subsidiary for the benefit of any current or former employees, officers or directors of the Company or any Company Subsidiary. The Company has made available to Parent true, complete and correct copies of (i) each Company Benefit Plan (or, in the case of any unwritten Company Benefit Plan, a description thereof), (ii) the most recent annual report on Form 5500 filed with the Internal Revenue Service with respect to each Company Benefit Plan (if any such report was required), (iii) the most recent summary plan description for each Company Benefit Plan for which such summary plan description is required and (iv) each trust agreement and group annuity contract relating to any Company Benefit Plan, if any.

(b) All Company Benefit Plans are in compliance in all material respects with applicable Law (including, where applicable, the Code and ERISA). All Company Pension Plans which are intended to be tax-qualified under Section 401(a) of the Code have been the subject of determination letters from the Internal Revenue Service to the effect that such Company Pension Plans are qualified and their related trusts are exempt from Federal income taxes under Sections 401(a) and 501(a), respectively, of the Internal Revenue Code of 1986, as amended (the "Code"), and no such determination letter has been revoked nor, to the knowledge of the Company, has revocation been threatened. No such Company Pension Plan has been amended since the date of its most recent determination letter or application therefor in any respect that would adversely affect its qualification, nor has any such Company Pension Plan been amended since December 31, 2004 in any respect that would materially increase its costs.

(c) No Company Pension Plan is a "defined benefit plan" within the meaning of Section 3(35) of ERISA or is subject to the minimum funding standards of Section 412 of the Code or Section 302 of ERISA, and neither the Company nor any Company Subsidiary has any actual or contingent liability under any defined benefit plan which it (or any affiliate) previously maintained or contributed to (or was obligated to maintain or contribute to). None of the Company, any Company Subsidiary, any officer of the Company or any Company Subsidiary or any of the Company Benefit Plans which are subject to ERISA, including the Company Pension Plans, or any trusts created thereunder, has engaged in a "prohibited transaction" (as such term is defined in Section 406 of ERISA or Section 4975 of the Code) or any other breach of fiduciary responsibility that could subject the Company, any Company Subsidiary or any officer of the Company or any Company Subsidiary to any material tax or penalty on prohibited transactions

imposed by such Section 4975 or to any material liability under Section 502(i) or 502(l) of ERISA.

(d) With respect to any Company Benefit Plan that is an employee welfare benefit plan, (i) no such Company Benefit Plan is funded through a "welfare benefits fund" (as such term is defined in Section 419(e) of the Code), (ii) each such Company Benefit Plan that is a "group health plan" (as such term is defined in Section 5000(b)(1) of the Code), complies in all material respects with the applicable requirements of Section 4980B(f) of the Code and (iii) each such Company Benefit Plan (including any such Plan covering retirees or other former employees) may be amended or terminated without material liability to the Company and the Company Subsidiaries on or at any time after the Effective Time, except with respect to contributions, premiums or benefit claims (actual or contingent) with respect to the period from the Effective Time to such termination.

(e) Other than payments that may be made to the persons listed in the Company Disclosure Letter (the "Primary Company Executives"), any amount that could be received (whether in cash or property or the vesting of property) as a result of the Offer, the Merger or any other Transaction by any employee, officer or director of the Company or any of its affiliates who is a "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-1) under any employment, severance or termination agreement, any other compensation arrangement or any Company Benefit Plan currently in effect would not be characterized as an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code). Set forth in the Company Disclosure Letter is (i) the estimated maximum amount that could be paid to each Primary Company Executive as a result of the Offer, the Merger and the other Transactions under all employment, severance and termination agreements, other compensation arrangements and Company Benefit Plans currently in effect and (ii) the "base amount" (as defined in Section 280G(b)(3) of the Code) for each Primary Company Executive calculated as of the date of this Agreement and assuming the Offer and the Merger occur on or prior to December 31, 2005.

Section 3.12 Litigation. Except as disclosed in the Filed Company SEC Documents or in the Company Disclosure Letter, there is no suit, action or proceeding pending or, to the knowledge of the Company, threatened against or affecting the Company or any Company Subsidiary (and, as of the date of this Agreement, the Company is not aware of any basis for any such suit, action or proceeding) that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect, nor is there any Judgment outstanding against the Company or any Company Subsidiary that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect.

Section 3.13 Compliance with Applicable Laws. Except as disclosed in the Filed Company SEC Documents or in the Company Disclosure Letter, the Company and the Company Subsidiaries are in compliance with all applicable Laws, including those relating to occupational health and safety and the environment, except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. Except as set forth in the Filed Company SEC Documents or in the Company Disclosure Letter, to the knowledge of the Company, neither the Company nor

any Company Subsidiary has received any written communication during the past two years from a Governmental Entity that alleges that the Company or a Company Subsidiary is not in compliance in any material respect with any applicable Law. This Section 3.13 does not relate to matters with respect to Taxes, which are the subject of Section 3.09.

Section 3.14 Contracts; Debt Instruments.

(a) Except as disclosed in the Filed SEC Documents or the Company Disclosure Letter, there are no contracts or agreements that are material to the business, assets, condition (financial or otherwise) or results of operations of the Company and the Company Subsidiaries taken as a whole. Neither the Company nor any Company Subsidiary is in violation of or in default under (nor does there exist any condition which upon the passage of time or the giving of notice or both would cause such a violation of or default under) any loan or credit agreement, note, bond, mortgage, indenture, lease, permit, concession, franchise, license or any other contract, agreement, arrangement or understanding, to which it is a party or by which it or any of its properties or assets is bound, except for violations or defaults that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) The execution, delivery and performance of that certain Share Purchase Agreement, dated as of the date hereof (the "CVG Agreement") among the Company, Consolidated Vision Group, Inc. ("CVG") and the shareholders of CVG, has been duly approved and authorized by all necessary action on the part of the Company, and the CVG Agreement has been duly and validly executed and delivered by the Company and, to the knowledge of the Company, CVG, and constitutes the legal, valid and binding obligations of the Company and, to the knowledge of the Company, CVG, enforceable against them in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and by the effect of the principles of equity (regardless of whether enforceability is considered in a proceed in equity or at law). Neither the Company nor, to the Company's knowledge, CVG, is in default of any of the terms and conditions contained in the CVG Agreement. The CVG Agreement has not been amended or modified in any way. A true and complete copy of the CVG Agreement has been provided to the Parent. The Financing Commitments (as defined in the CVG Agreement and referred to herein as the "Financing Commitments") are in full force and effect and have not been amended or modified by the Company in any way.

Section 3.15 Intellectual Property.

(a) The Company and the Company Subsidiaries own, or are validly licensed or otherwise have the right to use, all patents, patent rights (including patent applications and licenses), material inventions that have been identified as active patent matters but for which applications have not yet been filed, know-how, trade secrets, trademarks, trademark rights, trade names, trade name rights, service marks, service mark rights, copyrights and other proprietary intellectual property rights, databases and computer programs (collectively, "Intellectual Property Rights") which are used in the conduct of the business of the Company or the Company

Subsidiaries as currently conducted and the consummation of the Transactions will not breach, alter or impair any such Intellectual Property Rights.

(b) The Company Disclosure Letter sets forth a description of all material Intellectual Property Rights used by the Company or the Company Subsidiaries in the conduct of their business as currently conducted, and the countries in which each of the described rights is applicable.

(c) Except as set forth in the Company Disclosure Letter, no claims are pending or, to the knowledge of the Company, threatened that (i) the Company or any of the Company Subsidiaries is infringing or otherwise adversely affecting the rights of any person with regard to any Intellectual Property Right or (ii) assert that any Intellectual Property Rights owned by the Company or any Company Subsidiary (the "Owned Intellectual Property Rights") are invalid or unenforceable. To the knowledge of the Company, except as set forth in the Company Disclosure Letter, no person is infringing the rights of the Company or any of the Company Subsidiaries with respect to any Owned Intellectual Property Right.

(d) The Company has timely paid, or caused to be timely paid, all maintenance, renewal and other similar fees, and has timely met any applicable working requirements with respect to all Owned Intellectual Property Rights, except as set forth in the Company Disclosure Letter. With respect to Intellectual Property Rights other than Owned Intellectual Property Rights ("Licensed Intellectual Property Rights") that are material to the Company or the Company Subsidiaries, the Company is in compliance in all material respects with any applicable license or similar agreement, including the payment of all license, maintenance, renewal and other similar fees.

(e) All Owned Intellectual Property Rights are free and clear of any Liens and may be freely transferred, assigned, licensed or sublicensed except as set forth in the Company Disclosure letter. The Company's licenses with respect to all Licensed Intellectual Property Rights are free and clear of any Liens except as set forth in the Company Disclosure Letter.

Section 3.16 Certain Notes Receivable. There are no notes receivable of the Company or any Company Subsidiary owing by any director, officer, shareholder or employee of the Company or any Company Subsidiary.

Section 3.17 Brokers; Schedule of Fees and Expenses. No broker, investment banker, financial advisor or other person, other than TM Capital Corp. ("TM Capital"), the fees and expenses of which will be paid by the Company, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Offer, the Merger and the other Transactions based upon arrangements made by or on behalf of the Company. The estimated fees and expenses incurred and to be incurred by the Company in connection with the Offer, the Merger and the other Transactions (including the fees of TM Capital and the fees of the Company's legal counsel) are set forth in the Company Disclosure Letter.

Section 3.18 Opinion of Financial Advisor. The Company has received the opinion of TM Capital as of the date of this Agreement, to the effect that, as of such date but giving effect to the transactions contemplated by the CVG Agreement, the consideration to be

received in the Offer and the Merger by the holders of Company Common Stock is fair to such holders from a financial point of view and a copy of the signed opinion has been provided to Parent.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND SUB

Parent and Sub, jointly and severally, represent and warrant to the Company as follows:

Section 4.01 Organization, Standing and Power. Each of Parent and Sub is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and has all requisite corporate power and authority and possesses all governmental franchises, licenses, permits, authorizations and approvals in each case whether domestic or foreign necessary to enable it to own, lease or otherwise hold its properties and assets and to conduct its businesses as presently conducted, other than such franchises, licenses, permits, authorizations and approvals the lack of which, individually and in the aggregate, has not had and would not reasonably be expected to have a material adverse effect on the ability of Parent or Sub to perform its obligations under this Agreement or a material adverse effect on the ability of Parent or Sub to consummate the Offer, the Merger and the other Transactions (a "Parent Material Adverse Effect").

Section 4.02 Sub.

(a) Since the date of its incorporation, Sub has not carried on any business or conducted any operations other than the execution of this Agreement, the performance of its obligations hereunder and matters ancillary thereto. Sub was incorporated solely for the purpose of consummating the Transactions.

(b) The authorized capital stock of Sub consists of 1,000 shares of common stock, par value \$0.01 per share, all of which have been validly issued, are fully paid and nonassessable and are owned by Parent free and clear of any Lien.

Section 4.03 Authority; Execution and Delivery; Enforceability. Each of Parent and Sub has all requisite corporate power and authority to execute and deliver this Agreement and to consummate the Transactions. The execution and delivery by each of Parent and Sub of this Agreement and the consummation by it of the Transactions have been duly authorized by all necessary corporate action on the part of Parent and Sub. Parent, as sole stockholder of Sub, has approved this Agreement. Each of Parent and Sub has duly executed and delivered this Agreement, and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws of general applicability relating to or affecting the enforcement of creditors' rights and by the effect of the principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

Section 4.04 No Conflicts; Consents.

(a) The execution and delivery by each of Parent and Sub of this Agreement, do not, and the consummation of the Offer, the Merger and the other Transactions and compliance with the terms hereof will not, 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 to loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of Parent or any of its subsidiaries under, any provision of (i) the charter, by-laws or other organizational documents of Parent or any of its subsidiaries, (ii) any contract, lease, license, indenture, note, bond, agreement or other instrument (each, a "Contract") to which Parent or any of its subsidiaries is a party or by which any of their respective properties or assets is bound or (iii) subject to the filings and other matters referred to in Section 4.04(b), any Judgment or Law applicable to Parent or any of its subsidiaries or their respective properties or assets, other than, in the case of clauses (ii) and (iii) above, any such items that, individually and in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(b) No Consent of, or registration, declaration or filing with, any Governmental Entity is required to be obtained or made by or with respect to Parent or any of its subsidiaries in connection with the execution, delivery and performance of this Agreement or the consummation of the Transactions, other than (i) compliance with and filings, if required, under the HSR Act, (ii) the filing with the SEC of (A) the Offer Documents and (B) such reports under the Exchange Act as may be required in connection with this Agreement, the Offer, the Merger and the other Transactions, (iii) the filing of the Certificate of Merger with the Secretary of State of the State of Georgia, (iv) such filings as may be required in connection with the taxes described in Section 6.09 and (vi) such other items that, individually and in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

Section 4.05 Information Supplied. None of the information supplied or to be supplied by Parent or Sub for inclusion or incorporation by reference in (i) the Offer Documents, the Schedule 14D-9 or the Information Statement will, at the time such document is filed with the SEC, at any time it is amended or supplemented or at the time it is first published, sent or given to the Company's stockholders, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Proxy Statement (if required by Law) will, at the date it is first mailed to the Company's stockholders or at the time of the Company Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Offer Documents will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Parent or Sub with respect to statements made or incorporated by reference therein based on information supplied by the Company for inclusion or incorporation by reference therein.

Section 4.06 Brokers. No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Offer, the Merger and the other Transactions based upon arrangements made by or on behalf of Parent.

Section 4.07 Financial Ability to Perform. Parent and Sub will have cash funds sufficient as and when needed to pay all cash payments for shares of Company Common Stock and options in the Offer and the Merger.

Section 4.08 Litigation. There is no suit, action or proceeding pending or, to the knowledge of Parent, threatened against or affecting Parent or Sub (and, as of the date of this Agreement, Parent is not aware of any basis for any such suit, action or proceeding) that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on the ability of Parent or Sub to perform their respective obligations under this Agreement or a material adverse effect on the ability of Parent or Sub to consummate the Offer, the Merger and the Other Transactions (a "Purchaser Material Adverse Effect"), nor is there any Judgment outstanding against Parent or Sub that, individually or in the aggregate, has had or would reasonably be expected to have a Purchaser Material Adverse Effect.

ARTICLE V

COVENANTS RELATING TO CONDUCT OF BUSINESS

Section 5.01 Conduct of Business.

(a) Conduct of Business by the Company. Except for matters set forth in the Company Disclosure Letter, expressly agreed to in writing by Parent or otherwise expressly permitted by this Agreement, from the date of this Agreement to the earliest to occur of the date of the termination of this Agreement, the date directors designated by Parent or Sub have been elected to and shall constitute a majority of the Company Board (the "Control Date") or the Effective Time, the Company shall, and shall cause each Company Subsidiary to, conduct the business of the Company and the Company Subsidiaries taken as a whole in the usual, regular and ordinary course in substantially the same manner as previously conducted and use all reasonable efforts to preserve intact its current business organization, keep available the services of its current officers and employees and keep its relationships with customers, suppliers, licensors, licensees, distributors and others having business dealings with them to the end that its goodwill and ongoing business shall be unimpaired in all material respects at the Effective Time. In addition, and without limiting the generality of the foregoing, except for matters set forth in the Company Disclosure Letter, expressly agreed to in writing by Parent or otherwise expressly permitted by this Agreement, from the date of this Agreement to the earliest to occur of the date of the termination of this Agreement, the Control Date or the Effective Time, the Company shall not, and shall not permit any Company Subsidiary to, do any of the following without the prior written consent of Parent:

(i) (A) declare, set aside or pay any dividends on, or make any other distributions in respect of, any of its capital stock, other than dividends and distributions by a direct or indirect wholly owned subsidiary of the Company to its parent, (B) split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock, or (C) purchase, redeem or otherwise acquire any shares of capital stock of the Company or any Company Subsidiary or any other securities thereof or any rights, warrants or options to acquire any such shares or other securities;

(ii) issue, deliver, sell or grant (A) any shares of its capital stock, (B) any Voting Company Debt or other voting securities, (C) any securities convertible into or exchangeable for, or any options, warrants or rights to acquire, any such shares, Voting Company Debt, voting securities or convertible or exchangeable securities or (D) any "phantom" stock, "phantom" stock rights, stock appreciation rights or stock-based performance units, other than (1) the issuance of Company Common Stock (and associated Company Rights) upon the exercise of Company Stock Options outstanding on the date of this Agreement and in accordance with their present terms and (2) the issuance of Company Common Stock upon the exercise of Company Rights;

(iii) amend its certificate of incorporation, by-laws or other comparable charter or organizational documents;

(iv) other than as contemplated by the CVG Agreement, acquire or agree to acquire (A) by merging or consolidating with, or by purchasing a substantial equity interest in or portion of the assets of, or by any other manner, any business or any corporation, partnership, joint venture, association or other business organization or division thereof or (B) any assets that are material, individually or in the aggregate, to the Company and the Company Subsidiaries taken as a whole;

(v) (A) grant to any current or former director, officer or employee of the Company or any Company Subsidiary any increase in compensation, except to the extent required under employment agreements in effect as of the date of the most recent audited financial statements included in the Filed Company SEC Documents or, with respect to employees (other than directors, officers or key employees) in the ordinary course of business consistent with prior practice, (B) grant to any current or former employee, officer or director of the Company or any Company Subsidiary any increase in severance or termination pay, except to the extent required under any agreement in effect as of the date of the most recent audited financial statements included in the Filed Company SEC Documents, (C) enter into any employment, consulting, indemnification, severance or termination agreement with any such employee, officer or director, (D) establish, adopt, enter into or amend in any material respect any collective bargaining agreement or Company Benefit Plan or (E) take any action to accelerate any rights or benefits, or make any material determinations not in the ordinary course of business consistent with prior practice, under any collective bargaining agreement or Company Benefit Plan;

(vi) make any change in accounting methods, principles or practices materially affecting the reported consolidated assets, liabilities or results of operations of the Company, except insofar as may have been required by a change in GAAP;

(vii) sell, lease (as lessor), license or otherwise dispose of or subject to any Lien any material properties or assets, except sales of obsolete assets in the ordinary course of business consistent with past practice;

(viii) (A) incur any indebtedness for borrowed money or guarantee any such indebtedness of another person, issue or sell any debt securities or warrants or other rights to acquire any debt securities of the Company or any Company Subsidiary, guarantee any debt

securities of another person, enter into any "keep well" or other agreement to maintain any financial statement condition of another person or enter into any arrangement having the economic effect of any of the foregoing, except for short-term borrowings from persons that are not directors, officers or employees of the Company or any Company Subsidiary incurred in the ordinary course of business consistent with past practice, or (B) make any loans, advances or capital contributions to, or investments in, any other person, other than to or in the Company or any direct or indirect wholly owned subsidiary of the Company;

(ix) make or agree to make any new capital expenditure or expenditures that are in excess of \$150,000 individually or \$1,000,000 in the aggregate;

(x) make or change any material Tax election or settle or compromise any material Tax liability or refund;

(xi) (A) pay, discharge or satisfy any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise) in excess of \$50,000 individually or \$250,000 in the aggregate, other than the payment, discharge or satisfaction, in the ordinary course of business consistent with past practice or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the most recent consolidated financial statements (or the notes thereto) of the Company included in the Filed Company SEC Documents or incurred in the ordinary course of business consistent with past practice, (B) except for any redemptions pursuant to the Indenture (as defined below), cancel any indebtedness in excess of \$150,000 individually or \$500,000 in the aggregate or waive any claims or rights of substantial value or (C) waive the benefits of, or agree to modify in any manner, any confidentiality, standstill or similar agreement to which the Company or any Company Subsidiary is a party;

(xii) enter into, renew, extend, amend, modify, waive any material provision of, or terminate any lease or similar commitment, in each case providing for payments in excess of \$500,000 over the term of such lease or commitment (or until the date on which such lease or commitment may be terminated by the Company without penalty); or

(xiii) authorize, or commit or agree to take, any of the foregoing actions.

(b) Other Actions. The Company and Parent shall not, and shall not permit any of their respective subsidiaries to, take any action that would, or that would reasonably be expected to, result in (i) any of the representations and warranties of such party set forth in this Agreement that is qualified as to materiality becoming untrue, (ii) any of such representations and warranties that is not so qualified becoming untrue in any material respect or (iii) any condition to the Offer set forth in Exhibit A, or any condition to the Merger set forth in Article VII, not being satisfied; provided, however, that the obligations set forth in this Section 5.01(b) shall not be deemed to have been breached as a result of actions by the Company expressly permitted under Section 5.02(b).

(c) Advice of Changes. The Company shall promptly advise Parent orally and in writing of any change or event that has had or would reasonably be expected to have a Company Material Adverse Effect.

Section 5.02 No Solicitation.

(a) The Company shall not, nor shall it authorize or permit any Company Subsidiary to, nor shall it authorize or permit any officer, director or employee of, or any investment banker, attorney or other advisor or representative (collectively, "Representatives") of, the Company or any Company Subsidiary to, (i) directly or indirectly solicit, initiate or encourage the submission of, any Company Takeover Proposal (as defined in Section 5.02(e)), (ii) enter into any agreement with respect to any Company Takeover Proposal or (iii) directly or indirectly participate in any discussions or negotiations regarding, or furnish to any person any information with respect to, or take any other action to facilitate any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Company Takeover Proposal; provided, however, that prior to the first acceptance for payment of shares of Company Common Stock pursuant to the Offer the Company may, to the extent necessary to act in a manner consistent with the fiduciary obligations of the Company Board, as determined in good faith by it after consultation with outside counsel and TM Capital or another nationally recognized independent financial advisor, in response to a Company Takeover Proposal that the Company Board determines, in good faith after consultation with outside counsel, is reasonably likely to lead to a Superior Company Proposal (as defined in Section 5.02(e)), that was not solicited by the Company and that did not otherwise result from a breach or (pursuant to the last sentence of this Section 5.02(a)) a deemed breach of this Section 5.02(a), and subject to compliance with Section 5.02(c), (x) furnish information with respect to the Company to the person making such Company Takeover Proposal and its Representatives pursuant to a customary confidentiality agreement and (y) participate in discussions or negotiations with such person and its Representatives regarding such Company Takeover Proposal. Without limiting the foregoing, it is agreed that any violation of the restrictions set forth in the preceding sentence by any officer, director, investment banker, attorney or other advisor or representative of the Company or any Company Subsidiary, whether or not such person is purporting to act on behalf of the Company or any Company Subsidiary or otherwise, shall be deemed to be a breach of this Section 5.02(a) by the Company.

(b) Unless the Company Board, after consultation with outside counsel, determines in its good faith judgment that it is necessary to do so in order to fulfill its fiduciary obligations under applicable Law, neither the Company Board nor any committee thereof shall (i) withdraw or modify in a manner adverse to Parent or Sub, or publicly propose to withdraw or modify in a manner adverse to Parent or Sub, the approval or recommendation by the Company Board or any such committee of this Agreement, the Offer or the Merger, (ii) approve any letter of intent, agreement in principle, acquisition or similar agreement relating to any Company Takeover Proposal or (iii) approve or recommend, or publicly propose to approve or recommend, any Company Takeover Proposal. The Company shall not take the actions set forth in clauses (ii) or (iii) of the preceding sentence unless it has terminated or concurrently terminates this Agreement pursuant to Section 8.01(e).

(c) The Company promptly shall advise Parent orally and, within one business day, in writing of any Company Takeover Proposal or any inquiry with respect to, or that could reasonably be expected to lead to, any Company Takeover Proposal, the material terms and conditions of any such Company Takeover Proposal (including any changes thereto) and the identity of the person making any such Company Takeover Proposal or inquiry. The

Company shall (i) keep Parent fully informed of the status and details (including any change to the terms thereof) of any such Company Takeover Proposal and (ii) provide to Parent as soon as practicable after receipt or delivery thereof with copies of all correspondence and other written material sent or provided to the Company by any third party in connection with any Company Takeover Proposal or sent or provided by the Company to any third party in connection with any Company Takeover Proposal.

(d) Nothing contained in this Section 5.02 shall prohibit the Company from taking and disclosing to its stockholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any required disclosure to the Company's stockholders if, in the good faith judgment of the Company Board, after consultation with outside counsel, failure so to disclose would be inconsistent with its obligations under applicable law.

(e) For purposes of this Agreement:

"Company Takeover Proposal" means (i) any proposal or offer for a merger, consolidation, dissolution, recapitalization or other business combination involving the Company or any significant subsidiary of the Company (as defined in Regulation S-X of the Federal securities laws), or (ii) any proposal or offer to acquire in any manner, directly or indirectly, over 15% of the equity securities or consolidated total assets of the Company, in each case other than pursuant to the Transactions.

"Superior Company Proposal" means any proposal made by a third party to acquire substantially all the equity securities or assets of the Company, pursuant to a tender or exchange offer, a merger, a consolidation, a liquidation or dissolution, a recapitalization or a sale of all or substantially all its assets, (i) on terms which the Company Board determines in good faith to be superior from a financial point of view to the holders of Company Common Stock to the Transactions, taking into account all the terms and conditions of such proposal and this Agreement (including any proposal by Parent to amend the terms of the Transactions) and (ii) that the Company Board determines in good faith is reasonably capable of being completed, taking into account all financial, regulatory, legal and other aspects of such proposal.

Section 5.03 CVG Agreement. The Company shall comply with the terms and conditions of the CVG Agreement and shall use all commercially reasonable efforts to consummate the transactions contemplated by the CVG Agreement in accordance with the terms thereof and to enforce all of its rights thereunder. The Company shall not waive or amend any term or condition contained in the CVG Agreement without the express written consent of Parent. The Company shall not waive or amend any term or condition contained in the Financing Commitments and shall not incur any indebtedness in connection with the transactions contemplated by the CVG Agreement other than in accordance with the terms of the Financing Commitments.

ARTICLE VI

ADDITIONAL AGREEMENTS

Section 6.01 Preparation of Proxy Statement; Stockholders Meeting.

(a) Subject to the last sentence of Section 6.01(b), the Company shall, as soon as practicable following the expiration of the Offer and the purchase of the shares of Company Common Stock pursuant thereto, prepare and file with the SEC the Proxy Statement in preliminary form, and each of the Company, Parent and Sub shall use their best efforts to respond as promptly as practicable to any comments of the SEC with respect thereto. The Company shall notify Parent promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Proxy Statement or for additional information and shall supply Parent with copies of all correspondence between the Company or any of its representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Proxy Statement. If at any time prior to receipt of the Company Stockholder Approval there shall occur any event that should be set forth in an amendment or supplement to the Proxy Statement, the Company shall promptly prepare and mail to its stockholders such an amendment or supplement. The Company shall not mail any Proxy Statement, or any amendment or supplement thereto, to which Parent reasonably objects. The Company shall use its best efforts to cause the Proxy Statement to be mailed to the Company's stockholders as promptly as practicable after filing with the SEC.

(b) The Company shall, as soon as practicable following the expiration of the Offer and the purchase of the shares of Company Common Stock pursuant thereto, duly call, give notice of, convene and hold a meeting of its stockholders (the "Company Stockholders Meeting") for the purpose of seeking the Company Stockholder Approval. Subject to Section 5.02(b), the Company shall, through the Company Board, recommend to its stockholders that they give the Company Stockholder Approval. Without limiting the generality of the foregoing, the Company agrees that its obligations pursuant to the first sentence of this Section 6.01(b) shall not be affected by the commencement, public proposal, public disclosure or communication to the Company of any Company Takeover Proposal. Notwithstanding the foregoing, if Sub or any other subsidiary of Parent shall acquire at least 90% of the outstanding shares of each series of Company Capital Stock, the parties shall, at the request of Parent, take all necessary and appropriate action to cause the Merger to become effective as soon as practicable after the expiration of the Offer without a stockholders meeting in accordance with Section 14-2-1104 of the GBCC.

(c) Parent shall cause all shares of Company Common Stock purchased pursuant to the Offer and, if exercised, the Top Up Option, and all other shares of Company Common Stock owned by Parent, Sub or any other subsidiary of Parent to be voted in favor of the approval of this Agreement.

Section 6.02 Access to Information; Confidentiality. The Company shall, and shall cause each of its subsidiaries to, afford to Parent, and to Parent's officers, employees, accountants, counsel, financial advisors and other representatives, upon reasonable notice, reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, the Company shall, and shall cause each of its subsidiaries to, furnish promptly to Parent (a) a copy of each report, schedule, registration statement and other document filed by it during such period pursuant to the requirements of Federal or state securities laws and (b) all

other information concerning its business, properties and personnel as Parent may reasonably request; provided, however, that the Company may withhold the documents and information described in the Company Disclosure Letter to the extent required to comply with the terms of a confidentiality agreement with a third party in effect on the date of this Agreement; provided further, that the Company shall use all reasonable efforts to obtain, as promptly as practicable, any consent from such third party required to permit the Company to furnish such documents and information to Parent. All information exchanged pursuant to this Section 6.02 shall be subject to the confidentiality agreement dated as of February 23, 2005 between the Company and Parent (the "Confidentiality Agreement").

Section 6.03 Reasonable Efforts; Notification.

(a) Upon the terms and subject to the conditions set forth in this Agreement, each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all reasonable actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things reasonably necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the Offer, the Merger and the other Transactions, including (i) the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Entities and the making of all necessary registrations and filings (including filings with Governmental Entities, if any) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any Governmental Entity, (ii) the obtaining of all necessary consents, approvals or waivers from third parties, (iii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the Transactions, including, when reasonable, seeking to have any stay or temporary restraining order entered by any court or other Governmental Entity vacated or reversed and (iv) the execution and delivery of any additional instruments necessary to consummate the Transactions and to fully carry out the purposes of this Agreement. In connection with and without limiting the foregoing, the Company and the Company Board shall (i) take all action necessary to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to any Transaction, this Agreement or the Tender Agreements and (ii) if any state takeover statute or similar statute or regulation becomes applicable to this Agreement or the Tender Agreements, take all action necessary to ensure that the Offer, the Merger and the other Transactions 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 the Offer, the Merger and the other Transactions. Nothing in this Agreement shall be deemed to require any party to waive any substantial rights or agree to any substantial limitation on its operations or to dispose of any significant asset or collection of assets. As promptly as practicable after the consummation of the Offer, the Company shall use all reasonable efforts to notify Parent of any actions or nonactions of, waivers, consents and approvals from, and registrations and filings with, Governmental Entities, and any consents, approvals or waivers from third parties, that would be required in connection with the consummation of the Merger in the event that Parent elects pursuant to Section 1.03 to merge the Company with and into Sub instead of merging Sub into the Company.

(b) The Company shall give prompt notice to Parent, and Parent or Sub shall give prompt notice to the Company, of (i) any representation or warranty made by it contained in this Agreement that is qualified as to materiality becoming untrue or inaccurate in any respect or

any such representation or warranty that is not so qualified becoming untrue or inaccurate in any material respect or (ii) the failure by it to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties or the conditions to the obligations of the parties under this Agreement.

Section 6.04 Stock Options.

(a) As soon as practicable following the date of this Agreement, the Company Board (or, if appropriate, any committee administering the Company Stock Plans) shall adopt such resolutions and take, or cause the Company to take, such other actions as are required (including, without limitation, obtaining all necessary consents of all holders of Company Stock Options under the Company's Restated Stock Option and Incentive Award Plan (each of whom is set forth on Schedule 2 to the Company Disclosure Letter) but without compensating any holder of any Company Stock Option) to adjust the terms of all outstanding Company Stock Options heretofore granted under any Company Stock Plan that will be exercisable at the time of the first acceptance for payment of shares of Company Common Stock pursuant to the Offer (the "Exercisable Options") to provide that each such Exercisable Option outstanding at the time of the first acceptance for payment of shares of Company Common Stock pursuant to the Offer shall be canceled in exchange for a cash payment by the Company as soon as practicable following the first acceptance for payment of shares of Company Common Stock pursuant to the Offer of an amount equal to (i) the excess, if any, of (x) the highest price per share of Company Common Stock to be paid pursuant to the Offer over (y) the exercise price per share of Company Common Stock subject to such Exercisable Option, multiplied by (ii) the number of shares of Company Common Stock for which such Exercisable Option shall not theretofore have been exercised. The Company will be responsible for any required reporting to Federal, state or local tax authorities. Parent will advance such funds to the Company as the Company requires in order to comply with the provisions of this Section 6.04(a) and in order to pay all required amounts under the Company's Management Incentive Plan, each on terms mutually acceptable to Parent and the Company.

(b) All amounts payable pursuant to Section 6.04(a) shall be subject to any required withholding of Taxes or proof of eligibility of exemption therefrom and shall be paid without interest by the Company as soon as practicable following the first acceptance for payment of shares of Company Common Stock pursuant to the Offer. The Company shall use its best efforts to obtain all consents of the holders of Company Stock Options as shall be necessary to effectuate the foregoing. Notwithstanding anything to the contrary contained in this Agreement, payment shall, at Parent's request, be withheld in respect of any Company Stock Option until all necessary consents with respect to such Company Stock Option are obtained.

(c) The Company Stock Plans shall terminate as of the Effective Time, and the provisions in any other Benefit Plan providing for the issuance, transfer or grant of any capital stock of the Company or any interest in respect of any capital stock of the Company shall be deleted as of the Effective Time, and the Company shall ensure that following the Effective Time no holder of a Company Stock Option or any participant in any Company Stock Plan, or

other Company Benefit Plan shall have any right thereunder to acquire any capital stock of the Company or the Surviving Corporation.

(d) The parties agree, pursuant to 26 C.F.R. Section 1.1502-76(b)(1)(ii)(B), that the payments to be made pursuant to Section 6.04(a) are allocable to the period immediately following Closing. The parties agree to treat such payments for all Tax purposes as occurring at the beginning of the day after Closing, and agree to not take any position inconsistent with such treatment on any Tax Return.

(e) In this Agreement:

"Company Stock Option" means any option to purchase Company Common Stock granted under any Company Stock Plan.

"Company Stock Plans" means the 2004 Equity Incentive Plan, the Restated Stock Option and Incentive Award Plan and all agreements under which there are outstanding options to purchase Company Common Stock granted to employees, consultants or any other person.

Section 6.05 Benefit Plans. With respect to any "employee benefit plan", as defined in Section 3(3) of ERISA, maintained by Parent or any of its subsidiaries (including any severance plan), for all purposes, including determining eligibility to participate and vesting, service with the Company or any Company Subsidiary shall be treated as service with Parent or any of its subsidiaries; provided, however, that such service need not be recognized to the extent that such recognition would result in any duplication of benefits.

Section 6.06 Indemnification.

(a) Parent shall, to the fullest extent permitted by Law, cause the Company (from and after the Control Date) and the Surviving Corporation (from and after the Effective Time) to honor all the Company's obligations to indemnify, defend and hold harmless (including any obligations to advance funds for expenses) the current and former directors and officers of the Company and its subsidiaries against all losses, claims, damages or liabilities arising out of acts or omissions by any such directors and officers occurring prior to the Effective Time to the maximum extent that such obligations of the Company exist on the date of this Agreement, whether pursuant to the Company Charter, the Company By-laws, the GBCC, individual indemnity agreements or otherwise, and such obligations shall survive the Merger and shall continue in full force and effect in accordance with the terms of the Company Charter, the Company By-laws, the GBCC and such individual indemnity agreements from the Effective Time until the expiration of the applicable statute of limitations with respect to any claims against such directors or officers arising out of such acts or omissions. In the event a current or former director or officer of the Company or any of its subsidiaries is entitled to indemnification under this Section 6.06(a), such director or officer shall be entitled to reimbursement from the Company (from and after the Control Date) or the Surviving Corporation (from and after the Effective Time) for reasonable attorney fees and expenses incurred by such director or officer in pursuing such indemnification, including payment of such fees and expenses by the Surviving Corporation or the Company, as applicable, in advance of the final disposition of such action

upon receipt of an undertaking by such current or former director or officer to repay such payment if it shall be adjudicated that such current or former director or officer was not entitled to such payment.

(b) From and after the Control Date and for a period of six years after the Effective Time, Parent shall cause to be maintained in effect the current policies of directors' and officers' liability insurance maintained by the Company (provided that Parent may either (i) substitute therefor policies with reputable and financially sound carriers or (ii) maintain self insurance or similar arrangements through a financially sound insurance affiliate of Parent with at least as high a rating as the Company's current insurance carriers, in each case of at least the same coverage and amounts containing terms and conditions which are no less advantageous) with respect to claims arising from or related to facts or events which occurred at or before the Effective Time; provided, however, that Parent shall not be obligated to make annual premium payments for such insurance to the extent such premiums exceed 150% of the annual premiums paid as of the date hereof by the Company for such insurance (such 150% amount, the "Maximum Premium"). If such insurance coverage cannot be obtained at all, or can only be obtained at an annual premium in excess of the Maximum Premium, Parent shall maintain the most advantageous policies of directors' and officers' insurance obtainable for an annual premium equal to the Maximum Premium. The Company represents to Parent that the Maximum Premium is \$345,000.

(c) The Company will maintain, through the Effective Time, the Company's existing directors' and officers' insurance in full force and effect without reduction of coverage.

(d) If the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other person and shall not be the continuing or surviving corporation or entity of such consolidation or merger and the continuing or surviving entity does not assume the obligations of the Surviving Corporation set forth in this Section 6.06, or (ii) transfers all or substantially all of its properties and assets to any person, then, and in each such case, proper provision shall be made so that the successors and assigns of the Surviving Corporation assume, as a matter of law or otherwise, the obligations set forth in this Section 6.06.

Section 6.07 Fees and Expenses.

(a) Except as provided below, all fees and expenses incurred in connection with the Merger and the other Transactions shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated.

(b) The Company shall pay to Parent a fee of \$1,600,000 (the "Termination Fee") if: (i) this Agreement is terminated pursuant to Section 8.01(b)(iii) as a result of the failure of the condition set forth in paragraph (d) of Exhibit A; (ii) the Company terminates this Agreement pursuant to Section 8.01(e); (iii) Parent terminates this Agreement pursuant to Section 8.01(d)(i) or 8.01(d)(ii); (iv) after the date of this Agreement, any person makes a Company Takeover Proposal and (A) the Offer shall have remained open until the later of (1) the scheduled expiration date immediately following the date such Company Takeover Proposal is made and (2) ten days after the date such Company Takeover Proposal is made, (B) the

Minimum Tender Condition is not satisfied at such expiration date, (C) this Agreement is terminated pursuant to Section 8.01(b)(i) or 8.01(b)(iii) (other than as a result of the failure of the condition set forth in paragraph (d) of Exhibit A) and (D) within 12 months of such termination the Company enters into a definitive agreement to consummate, or consummates, the transactions contemplated by such Company Takeover Proposal; or (v) subject to Section 6.07(c), (A) this Agreement is terminated pursuant to Section 8.01(c) as a result of a willful breach by the Company, (B) after such termination, a Company Takeover Proposal is made, and (C) within 12 months of such termination the Company enters into a definitive agreement to consummate, or consummates, the transactions contemplated by any Company Takeover Proposal. Any fee due under this Section 6.07(b) shall be paid by wire transfer of same-day funds on the date of termination of this Agreement (except that in the case of clause (iv) or (v) above such payment shall be made on the date of execution of such definitive agreement or, if earlier, consummation of such transactions).

(c) If the Company becomes obligated to pay a fee under Section 6.07(b) as a result of a termination pursuant to Section 8.01(c), Parent may elect at any time not to receive the fee and, if such election is made, may pursue any and all rights, claims and causes of action it may have under Law with respect to the breach giving rise to such right of termination. If Parent elects to receive the fee, and the Company pays the fee as required by Section 6.07(b), the payment by the Company of such fee shall be Parent's and Sub's sole remedy with respect to such breach and each of Parent and Sub shall waive, to the fullest extent permitted by Law, any and all rights, claims and causes of action (other than claims of, or causes of action arising from, fraud) it may have against the Company with respect to such breach.

(d) Upon the earlier of (i) the termination of this Agreement in accordance with its terms, or (ii) the Effective Time, all reasonable out-of-pocket expenses (including, without limitation, reasonable attorneys fees) incurred by Parent in connection with the Offer (the "Parent Transaction Expenses"), the Merger and the other Transactions contemplated hereby shall be paid by the Company; provided, however, that the Company's obligation as set forth in this Section 6.07(d) shall not apply upon any termination of this Agreement pursuant to Section 8.01(g) hereto; and provided, further, that in the case of clause (i) above, the Parent Transaction Expenses shall be paid by the Company in six (6) equal monthly installments beginning in the first month such Parent Transaction Expenses are due. In the case of clause (i) above, such Parent Transaction Expenses shall not exceed \$2,000,000 without the prior written approval of the Company; provided, however, that in no event shall the aggregate amount of (x) the Termination Fee, plus (y) the Parent Transaction Expenses, required to be paid by the Company pursuant to this Section 6.07, exceed \$2,600,000.

Section 6.08 Public Announcements. Parent and Sub, on the one hand, and the Company, on the other hand, shall consult with each other before issuing, and provide each other the opportunity to review and comment upon, any press release or other public statements with respect to the Offer, the Merger and the other Transactions and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange.

Section 6.09 Transfer Taxes. All stock transfer, real estate transfer, documentary, stamp, recording and other similar Taxes (including interest, penalties and additions to any such Taxes) ("Transfer Taxes") incurred in connection with the Transactions shall be paid by the party upon whom the primary burden for payment is placed by the applicable law. Each party shall cooperate with the other in preparing, executing and filing any Tax Returns with respect to such Transfer Taxes and shall use reasonable efforts to avail itself of any available exemptions from such Transfer Taxes, and shall cooperate in providing any information and documentation that may be necessary to obtain such exemptions.

Section 6.10 Directors. Promptly upon the first acceptance for payment of, and payment by Sub for, any shares of Company Common Stock pursuant to the Offer, Sub shall be entitled to designate such number of directors on the Company Board as will give Sub, subject to compliance with Section 14(f) of the Exchange Act, representation on the Company Board equal to at least that number of directors, rounded up to the next whole number, which is the product of (a) the total number of directors on the Company Board (giving effect to the directors elected pursuant to this sentence) multiplied by (b) the percentage that (i) such number of shares of Company Common Stock so accepted for payment and paid for by Sub plus the number of shares of Company Common Stock otherwise owned by Sub or any other subsidiary of Parent bears to (ii) the number of such shares outstanding, and the Company shall, at such time, cause Sub's designees to be so elected; provided, however, that in the event that Sub's designees are appointed or elected to the Company Board, until the Effective Time the Company Board shall have at least two directors who are directors on the date of this Agreement and who are not officers of the Company (the "Independent Directors"); and provided further that, in such event, if the number of Independent Directors shall be reduced below two for any reason whatsoever, any remaining Independent Directors (or Independent Director, if there shall be only one remaining) shall be entitled to designate persons to fill such vacancies who shall be deemed to be Independent Directors for purposes of this Agreement or, if no Independent Directors then remain, the other directors shall designate two persons to fill such vacancies who are not officers, stockholders or affiliates of the Company, Parent or Sub, and such persons shall be deemed to be Independent Directors for purposes of this Agreement. Subject to applicable Law, the Company shall take all action requested by Parent necessary to effect any such election, including mailing to its stockholders the Information Statement containing the information required by Section 14(f) of the Exchange Act and Rule 14f-1 promulgated thereunder, and the Company shall make such mailing with the mailing of the Schedule 14D-9 (provided that Sub shall have provided to the Company on a timely basis all information required to be included in the Information Statement with respect to Sub's designees). In connection with the foregoing, the Company shall promptly, at the option of Sub, either increase the size of the Company Board or obtain the resignation of such number of its current directors as is necessary to enable Sub's designees to be elected or appointed to the Company Board as provided above.

Section 6.11 Rights Agreement; Consequences if Rights Triggered. The Company Board shall take all action requested in writing by Parent in order to render the Company Rights inapplicable to the Offer, the Merger and the other Transactions. Except as approved in writing by Parent, the Company Board shall not (i) amend the Company Rights Agreement, (ii) redeem the Company Rights or (iii) take any action with respect to, or make any determination under, the Company Rights Agreement, in each case in a manner adverse to Parent or Sub. If any Distribution Date or Stock Acquisition Date occurs under the Company Rights

Agreement at any time during the period from the date of this Agreement to the Effective Time, the Company and Parent shall make such adjustment to the Offer Price as the Company and Parent shall mutually agree so as to preserve the economic benefits that the Company and Parent each reasonably expected on the date of this Agreement to receive as a result of the consummation of the Offer, the Merger and the other Transactions.

Section 6.12 Stockholder Litigation. The Company shall give Parent the opportunity to participate in the defense or settlement of any stockholder litigation against the Company and its directors relating to any Transaction; provided, however, that the Company shall not enter into any such settlement without Parent's consent, which consent shall not be unreasonably withheld.

Section 6.13 Parent Loan to Company. Upon payment for shares of Company Common Stock pursuant to the Offer, in order to facilitate the purchase by the Company of CVG upon the terms and conditions set forth in the CVG Agreement, Parent shall provide subordinated debt financing or redeemable preferred stock financing to the Company in the amount of up to \$31,000,000 (but in no event less than \$25,000,000) upon commercially reasonable terms to be mutually agreed upon by Parent and the Company; provided that Parent may reduce the amount of such financing by the amount, if any, paid pursuant to the Top Up Option.

Section 6.14 Indenture. Following the consummation of the Offer, the Company shall use the proceeds from the Financing Commitments to redeem all notes outstanding under the Indenture, dated as of June 15, 2001 and as subsequently amended, between the Company and State Street Bank and Trust Company, as trustee, at a redemption price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any.

ARTICLE VII

CONDITIONS PRECEDENT

Section 7.01 Conditions to Each Party's Obligation To Effect The Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver on or prior to the Closing Date of the following conditions:

(a) Stockholder Approval. The Company shall have obtained the Company Stockholder Approval, if required.

(b) Antitrust. In the event a filing under the HSR Act is required, the waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have been terminated or shall have expired. Any consents, approvals and filings under any other foreign antitrust Law the absence of which would prohibit the consummation of Merger, shall have been obtained or made.

(c) No Injunctions or Restraints. No statute, rule, regulation, executive order, decree, temporary restraining order, preliminary or permanent injunction or other order enacted,

entered, promulgated, enforced or issued by any Governmental Entity or other legal restraint or prohibition preventing the consummation of the Merger or the other Transactions shall be in effect; provided, however, that prior to asserting this condition each of the parties shall have used all reasonable efforts to prevent the entry of any such injunction or other order and to appeal as promptly as possible any such injunction or other order that may be entered.

(d) Acceptance of Shares Pursuant to the Offer. Sub shall have accepted shares of Company Common Stock for payment pursuant to the Offer; provided, that the obligation of a party to effect the Merger shall not be conditioned on the fulfillment of the condition set forth in this clause (d) if the failure of Sub to accept shares of Company Common Stock for payment pursuant to the Offer shall have constituted or resulted from a material breach of the Offer or this Agreement by such party.

(e) Consent of Option Holders. The Company shall have obtained the written consent of holders of Company Stock Options issued and outstanding under the Company's Restated Stock Option and Incentive Award Plan to cancel all such Company Stock Options as contemplated in Section 6.04(a) hereto.

ARTICLE VIII

TERMINATION, AMENDMENT AND WAIVER

Section 8.01 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after receipt of Company Stockholder Approval:

(a) by mutual written consent of Parent, Sub and the Company;

(b) by either Parent or the Company:

(i) if the Offer is not consummated on or before December 31, 2005 (the "Outside Date"), unless the failure to consummate the Offer is the result of a willful and material breach of this Agreement by the party seeking to terminate this Agreement;

(ii) if any Governmental Entity issues an order, decree or ruling or takes any other action permanently enjoining, restraining or otherwise prohibiting the acceptance for payment of, or payment for, shares of Company Common Stock pursuant to the Offer or the Merger and such order, decree, ruling or other action shall have become final and nonappealable; or

(iii) if as the result of the failure of any of the conditions set forth in Exhibit A to this Agreement, the Offer shall have terminated or expired in accordance with its terms without Sub having accepted shares of Company Common Stock for payment pursuant to the Offer; provided, however, that the right to terminate this Agreement pursuant to this clause (iii) shall not be available to any party whose failure to fulfill any of its obligations under this Agreement results in the failure of any such condition or if the failure of such condition results from facts or circumstances that constitute a willful breach of any representation or warranty under this Agreement by such party; or

(iv) if Sub fails to commence the Offer as provided in Section 1.01(a) on or before August 2, 2005 due to the failure of the condition set forth in paragraph (a) of Exhibit A; provided, however, that the right to terminate this Agreement pursuant to this clause (iv) shall not be available to the Company if its failure to fulfill any of its obligations under this Agreement results in the failure of the condition described in paragraph (a) of Exhibit A or if the failure of the condition described in paragraph (a) of Exhibit A results from facts or circumstances that constitute a breach of any representation or warranty under this Agreement by the Company; or

(c) by Parent, if the Company breaches or fails to perform in any material respect any of its representations, warranties or covenants contained in this Agreement (other than a breach or failure to perform for which Parent has the right to terminate this Agreement pursuant to Section 8.01(d)(ii)), which breach or failure to perform (i) would give rise to the failure of a condition set forth in Exhibit A, and (ii) cannot be or has not been cured within 20 days after the giving of written notice to the Company of such breach (provided that Parent is not then in material breach of any representation, warranty or covenant contained in this Agreement); or

(d) by Parent prior to the first acceptance of shares of Company Common Stock for payment pursuant to the Offer:

(i) if the Company Board or any committee thereof withdraws or modifies in a manner adverse to Parent or Sub, or publicly proposes to withdraw or modify in a manner adverse to Parent or Sub, its approval or recommendation of this Agreement, the Offer or the Merger, fails to recommend to the Company's stockholders that they accept the Offer and give the Company Stockholder Approval or publicly approves or recommends, or publicly proposes to approve or recommend, any Company Takeover Proposal; or

(ii) if the Company or any of its officers, directors, representatives or agents willfully takes any of the actions proscribed by Section 5.02 but for the exceptions therein allowing certain actions to be taken pursuant to the proviso in the first sentence of Section 5.02(a); or

(e) by the Company prior to the first acceptance of shares of Company Common Stock for payment pursuant to the Offer in accordance with Section 8.05(b); provided, however, that the Company shall have complied with all provisions thereof, including the notice provisions therein;

(f) by the Parent in the event the CVG Agreement is terminated by either the Company or CVG; or

(g) by the Company prior to the first acceptance of shares of Company Common Stock for payment pursuant to the Offer, if Parent breaches or fails to perform in any material respect any of its representations, warranties or covenants contained in this Agreement, which breach or failure to perform cannot be or has not been cured within 20 days after the giving of written notice to Parent of such breach (provided that the Company is not then in material breach of any representation, warranty or covenant contained in this Agreement).

Section 8.02 Effect of Termination. In the event of termination of this Agreement by either the Company or Parent as provided in Section 8.01, this Agreement shall forthwith become void and have no effect. Such termination shall be without any liability or obligation on the part of Parent, Sub or the Company, other than Section 3.17 (Brokers; Schedule of Fees and Expenses), Section 4.06 (Brokers), the last sentence of Section 6.02 (Access to Information; Confidentiality), Section 6.07 (Fees and Expenses), this Section 8.02 and Article IX (General Provisions), which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any representation, warranty or covenant set forth in this Agreement.

Section 8.03 Amendment. This Agreement may be amended by the parties at any time before or after receipt of the Company Stockholder Approval; provided, however, that after receipt of the Company Stockholder Approval, there shall be made no amendment that by Law requires further approval by the stockholders of the Company without the further approval of such stockholders; and provided, further, that after Sub's purchase of shares in the Offer, no such amendment or modification shall be made that reduces the amount or changes the form of Merger Consideration or otherwise materially and adversely affects the rights of the Company's stockholders hereunder, without the further approval of such stockholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

Section 8.04 Extension; Waiver. At any time prior to the Effective Time, the parties may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 8.03, waive compliance with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

Section 8.05 Procedure for Termination, Amendment, Extension or Waiver.

(a) A termination of this Agreement pursuant to Section 8.01, an amendment of this Agreement pursuant to Section 8.03 or an extension or waiver pursuant to Section 8.04 shall, in order to be effective, require in the case of Parent, Sub or the Company, action by its Board of Directors or the duly authorized designee of its Board of Directors; provided, that in the case of the Company and in the event the Offer has been consummated and the shares of Company Common Stock have been purchased pursuant thereto, such action shall also require action by a majority of the Independent Directors.

(b) The Company may terminate this Agreement pursuant to Section 8.01(e) only if (i) the Company Board has received a Superior Company Proposal, (ii) in light of such Superior Company Proposal the Company Board shall have determined in good faith, after consultation with outside counsel, that it is necessary for the Company Board to withdraw or modify its approval or recommendation of this Agreement, the Offer or the Merger in order to act in a manner consistent with its fiduciary duty under applicable Law, (iii) the Company has notified Parent in writing of the determinations described in clause (ii) above, (iv) at least three

business days following receipt by Parent of the notice referred to in clause (iii) above, and taking into account any revised proposal made by Parent since receipt of the notice referred to in clause (iii) above, such Superior Company Proposal remains a Superior Company Proposal and the Company Board has again made the determinations referred to in clause (ii) above, (v) the Company is in compliance with Section 5.02, (vi) the Company has previously paid the fee due under Section 6.07 and (vii) the Company Board concurrently approves, and the Company concurrently enters into, a definitive agreement providing for the implementation of such Superior Company Proposal.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01 Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 9.01 (including any rights arising out of any breach of such representations and warranties) shall not limit any covenant or 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 under this Agreement shall be in writing and shall be deemed given (i) seven days after mailing by certified mail, (ii) when delivered by hand, (iii) upon confirmation of receipt by telecopy or (iv) one business day after sending by overnight delivery service, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

- (a) if to Parent or Sub, to

Vision Holding Corp.
c/o Berkshire Partners LLC
One Boston Place, Suite 3300
Boston, MA 02108
Attention: D. Randolph Peeler
Facsimile: 617-227-6105

with a copy to:

Weil, Gotshal & Manges LLP
100 Federal Street
Boston, MA 02110
Attention: Steven M. Peck, Esq.
Facsimile: 617-772-8333

- (b) if to the Company, to

National Vision, Inc.
c/o Peter Socha

James River Coal Company
901 East Byrd Street
Suite 1600
Richmond, VA 23219
Facsimile: 804-780-0643

with a copy to:

Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta, Georgia 30309
Attention: David A. Stockton, Esq.
Facsimile: (404)815-6555

Section 9.03 Definitions. For purposes of this Agreement:

An "affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person.

A "key employee" means an employee of the Company or any Company Subsidiary whose total annual compensation (including incentive compensation), for the 2004 fiscal year, exceeded \$150,000.

A "material adverse effect" on a party means a material adverse effect on the business, assets, condition (financial or otherwise), prospects or results of operations of such party and its subsidiaries, taken as a whole, other than effects due to (A) general economic, market or political conditions or (B) matters generally affecting the industry in which such party operates.

A "person" means any individual, firm, corporation, partnership, company, limited liability company, trust, joint venture, association, Governmental Entity or other entity.

A "subsidiary" of any person means another person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its Board of Directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which) is owned directly or indirectly by such first person.

"to the knowledge" of any specified corporation means to the actual knowledge of any director or officer of such corporation. "To the knowledge" of the Company means the actual knowledge of the directors of the Company and each of Reade Fahs, J. Bruce Steffey, Paul A. Criscillis, Jr., Mitchell Goodman, Robert Stein, Robert Schnelle, Desmond Taylor, Paul Gross and Charlie Folle, in each case after due inquiry.

Section 9.04 Interpretation; Disclosure Letters. When a reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for

reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". Any matter disclosed in any section of the Company Disclosure Letter shall be deemed disclosed for the purposes of any Sections of this Agreement for which such disclosed matter would apply to the extent the Parent is reasonably put on notice by the nature of such disclosure.

Section 9.05 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.

Section 9.06 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

Section 9.07 Entire Agreement; Third-Party Beneficiaries. This Agreement, taken together with the Company Disclosure Letter and the Confidentiality Agreement, (a) constitute the entire agreement, and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the Transactions and (b) except for the provisions of Article II, Section 6.04 and Section 6.06, are not intended to confer upon any person other than the parties any rights or remedies.

Section 9.08 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

Section 9.09 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 any of the parties without the prior written consent of the other parties, except that Sub may assign, in its sole discretion, any of or all its rights, interests and obligations under this Agreement to Parent or to any direct or indirect wholly owned subsidiary of Parent, but no such assignment shall relieve Sub of any of its obligations under this Agreement. 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.

Section 9.10 Enforcement. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to

enforce specifically the terms and provisions of this Agreement in any Georgia or Massachusetts state court or any Federal court located in the State of Georgia or the Commonwealth of Massachusetts, this being in addition to any other remedy to which they are entitled at law or in equity. In addition, each of the parties hereto (a) consents to submit itself to the personal jurisdiction of any Georgia or Massachusetts state court or any Federal court located in the State of Georgia or the Commonwealth of Massachusetts in the event any dispute arises out of this Agreement or any Transaction, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (c) waives any right to trial by jury with respect to any action related to or arising out of this Agreement or any Transaction.

Section 9.11 Consents. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in Sections 8.04 and 8.05. Sub hereby agrees that any consent or waiver of compliance given by Parent hereunder shall be conclusively binding upon it, whether given expressly on its behalf or not.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Parent, Sub and the Company have duly executed this Agreement, all as of the date first written above.

Vision Holding Corp.

By: /s/ David R. Peeler

Name: David R. Peeler
Title: President

Vision Acquisition Corp.

By: /s/ David R. Peeler

Name: David R. Peeler
Title: President

National Vision, Inc.

By: /s/ Peter T. Socha

Name: Peter T. Socha
Title: Chair, Special Committee of the
Board of Directors

EXHIBIT A

CONDITIONS OF THE OFFER

Notwithstanding any other term of the Offer or this Agreement, Sub shall not be required to accept for payment or, subject to any applicable rules and regulations of the SEC, including Rule 14e-1(c) under the Exchange Act (relating to Sub's obligation to pay for or return tendered shares of Company Common Stock promptly after the termination or withdrawal of the Offer), to pay for any shares of Company Common Stock tendered pursuant to the Offer unless (i) there shall have been validly tendered and not withdrawn prior to the expiration of the Offer that number of shares of Company Common Stock which, together with that number of shares of Company Common Stock owned by Parent, Sub and Parent's other subsidiaries (including any shares purchased pursuant to the Top Up Option), would represent more than sixty-seven percent (67%) of the Fully Diluted Shares (the "Minimum Tender Condition"), (ii) any waiting period under the HSR Act applicable to the purchase of shares of Company Common Stock pursuant to the Offer shall have expired or been terminated, (iii) the Company shall have closed the transactions contemplated by the CVG Agreement and received the debt financing contemplated by the Financing Commitments, (iv) the Company shall have received consents from the persons listed in Schedule 3.05(b) of the Company Disclosure Letter, which consents waive any default under or right to terminate the Contracts referred to therein that would otherwise have resulted from the Offer, the Merger or the other Transactions, and (v) the Company shall have obtained the written consent of holders of Company Stock Options issued and outstanding under the Company's Restated Stock Option and Incentive Award Plan to cancel all such Company Stock Options as contemplated in Section 6.04(a) of this Agreement. The term "Fully Diluted Shares" means all outstanding securities, as of 12:00 midnight on the expiration date of the Offer, entitled generally to vote in the election of directors of the Company on a fully diluted basis, after giving effect to the exercise or conversion of all options, rights and securities exercisable (taking into account acceleration of exercisability that would result from the transactions contemplated hereby) or convertible into such voting securities. Furthermore, notwithstanding any other term of the Offer or this Agreement, Sub shall not be required to accept for payment or, subject as aforesaid, to pay for any shares of Company Common Stock not theretofore accepted for payment or paid for, and may terminate or amend the Offer, (A) with the consent of the Company or (B) without the consent of the Company at any time on or after the date of this Agreement and before the first acceptance of such shares for payment or the payment therefor when any of the following conditions exists:

(a) there shall be threatened or pending any suit, action or proceeding (other than by Parent or Sub, a stockholder of Parent (that is not also a stockholder of the Company) or Sub or any person affiliated with Parent or Sub) which, in the reasonable judgment of Parent, has a reasonable likelihood of success or would require the expenditure of funds that are material in relation to the Company and its subsidiaries taken as a whole to defend (i) challenging the acquisition by Parent or Sub of any Company Common Stock, seeking to restrain or prohibit the making or consummation of the Offer or the Merger, or seeking to obtain from the Company, Parent or Sub any damages that are material in relation to the Company and its subsidiaries taken as a whole, (ii) seeking to prohibit or limit the ownership or operation by the Company, Parent or any of their respective subsidiaries of any material portion of the business or assets of the Company and its subsidiaries taken as a whole or Parent and its subsidiaries taken as a whole, or to compel the Company, Parent or any of their respective subsidiaries to dispose of or hold separate any material portion of the business or assets of the

Company and its subsidiaries taken as whole or Parent and its subsidiaries taken as a whole, as a result of the Offer or the Merger, (iii) seeking to prohibit or limit the ownership or operation by the Company or CVG or any of their respective subsidiaries of any material portion of the business or assets of CVG and its subsidiaries taken as whole, or to compel the Company or CVG or any of their respective subsidiaries to dispose of or hold separate any material portion of the business or assets of CVG and its subsidiaries taken as whole, as a result of the transactions contemplated by the CVG Agreement, (iv) seeking to impose material limitations on the ability of Parent or Sub to acquire or hold, or exercise full rights of ownership of, any shares of Company Common Stock, including the right to vote the Company Common Stock acquired by it on all matters properly presented to the stockholders of the Company or (vi) seeking to prohibit Parent or any of its subsidiaries from effectively controlling in any material respect the business or operations of the Company, the Company Subsidiaries or CVG;

(b) any Law or Judgment enacted, entered, enforced, promulgated, amended or issued with respect to, or deemed applicable to, or any required consent or approval withheld with respect to, (i) Parent, the Company, CVG or any of their respective subsidiaries, or (ii) the Offer or the Merger, by any Governmental Entity that is reasonably likely to result, directly or indirectly, in any of the consequences referred to in paragraph (a) above;

(c) since the date of this Agreement there shall have occurred any event, change, effect or development that, individually or in the aggregate, has had or would reasonably be expected to have, a Company Material Adverse Effect;

(d) the Company Board or any committee thereof shall have withdrawn or modified in a manner adverse to Parent or Sub, or publicly proposed to withdraw or modify in a manner adverse to Parent or Sub, its approval or recommendation of this Agreement, the Offer or the Merger, failed to recommend to the Company's stockholders that they accept the Offer or approved or recommended, or publicly proposed to approve or recommend, any Company Takeover Proposal;

(e) any of the representations and warranties of the Company contained in the Agreement (as each such representation or warranty would read if all qualifications as to materiality or knowledge were deleted therefrom) shall not be true and correct when made or at any time prior to the consummation of the Offer as if made at and as of such time except where the failure to be so true and correct, individually or in the aggregate, has not had and would not reasonably be expected to have, a Company Material Adverse Effect;

(f) the Company shall have failed to perform in any material respect any obligation or to comply in any material respect with any agreement or covenant of the Company to be performed or complied with by it under this Agreement, which failure to perform or comply cannot be or has not been cured within ten days after the giving of written notice to the Company of such breach;

(g) the CVG Agreement shall have been terminated by either the Company or CVG; or

(h) this Agreement shall have been terminated in accordance with its terms;

which, in the sole and good faith judgment of Sub or Parent, in any such case, and regardless of the circumstances giving rise to any such condition (including any action or inaction by Parent or any of its affiliates), makes it inadvisable to proceed with such acceptance for payment or payment.

The foregoing conditions, including those contained in clauses (i), (ii), (iii), (iv) and (v) of the first paragraph of this Exhibit A, are for the sole benefit of Sub and Parent and, subject to Section 1.01(a), may be asserted by Sub or Parent regardless of the circumstances giving rise to such condition or may be waived by Sub and Parent in whole or in part at any time and from time to time in their sole discretion (subject to the terms of this Agreement). The failure by Parent, Sub or any other affiliate of Parent at any time to exercise any of the foregoing rights shall not be deemed a waiver of any such right, the waiver of any such right with respect to particular facts and circumstances shall not be deemed a waiver with respect to any other facts and circumstances and each such right shall be deemed an ongoing right that may be asserted at any time and from time to time.

SHARE PURCHASE AGREEMENT

BY AND AMONG

CONSOLIDATED VISION GROUP, INC.,
(a Delaware corporation)

THE SELLERS LISTED ON SCHEDULE I HERETO

and

NATIONAL VISION, INC.
(a Georgia corporation)

July 25, 2005

TABLE OF CONTENTS

	Page
1. DEFINITIONS	1
2. PURCHASE AND SALE; CLOSING	7
2.1 Purchase and Sale	7
2.2 Closing	7
2.3 Deliveries at Closing	7
2.4 Company Options; Post-Closing Deliveries	9
2.5 Adjustment to the Purchase Price	10
3. REPRESENTATIONS AND WARRANTIES CONCERNING THE COMPANY	11
3.1 Corporate Power; Enforceable Obligation	11
3.2 No Violations	11
3.3 Consents and Approvals	12
3.4 Corporate Existence	12
3.5 Capitalization	12
3.6 Subsidiaries	13
3.7 Financial Statements	13
3.8 Inventory	13
3.9 Assets	14
3.10 Accounts Receivable	14
3.11 Real Property	14
3.12 Bank Accounts	15
3.13 Compensation Arrangements	15
3.14 Absence of Undisclosed Liabilities	15
3.15 Absence of Changes or Events	16
3.16 Compliance with Law	17
3.17 Litigation	18
3.18 Material Contracts	18
3.19 Taxes	19
3.20 Employee Benefit Matters	20
3.21 Intellectual Property Matters	23
3.22 Insurance	23
3.23 No Brokers	24
3.24 Product Warranties	24
3.25 Environmental Matters	24
3.26 Health Care Compliance	25
3.27 Employment Matters	25
3.28 Transactions With Affiliates	26
3.29 Supplier Relations	26
3.30 Prohibitions on Conduct of Business	26
3.31 Guaranties	26
3.32 Systems	27
4. REPRESENTATIONS AND WARRANTIES OF THE SELLERS	27
4.1 Organization of Certain Sellers	27
4.2 Corporate Power; Enforceable Obligation	27

		Page
	4.3	No Violations 27
	4.4	Title to Shares 27
	4.5	No Brokers 27
	4.6	No Foreign Persons 28
5.	REPRESENTATIONS AND WARRANTIES OF THE BUYER	28
	5.1	Corporate Power; Enforceable Obligation 28
	5.2	No Violations 28
	5.3	Consents and Approvals 28
	5.4	Litigation 28
	5.5	Sufficient Funds 28
	5.6	No Brokers 29
	5.7	Investment Purpose 29
6.	COVENANTS PENDING CLOSING	29
	6.1	Conduct of Target Company Business Pending Closing 29
	6.2	Consents and Approvals 31
	6.3	Cooperation with Respect to Financing 33
	6.4	Resignation of Directors 33
	6.5	Use of Name 33
	6.6	Exclusivity 33
	6.7	Reasonable Commercial Efforts 33
7.	OTHER AGREEMENTS	33
	7.1	Books and Records 33
	7.2	No Other Warranties 34
	7.3	Investigation and Evaluation 34
	7.4	Disclaimer 34
	7.5	Publicity 34
	7.6	Employee and Related Matters 34
	7.7	Consents, Assigned Contracts, Etc 35
	7.8	Notification of Certain Matters 35
	7.9	Director and Officer Insurance 36
	7.10	Releases 36
	7.11	Access and Inspection; Cooperation 36
	7.12	Target Company Assets Owned by Others 37
	7.13	Cancellation of Certain Agreements 37
	7.14	Evidence of Insurance 37
	7.15	Restrictive Covenants 37
8.	CONDITIONS PRECEDENT TO THE CLOSING	38
	8.1	Conditions Precedent to the Parties' Obligations 38
	8.2	Conditions Precedent to the Buyer's Obligations 39
	8.3	Conditions Precedent to the Sellers' Obligations 39
	8.4	Frustration of Conditions 40
9.	TAX MATTERS	40

		Page
	9.1 Preparation and Filing of Tax Returns	40
	9.2 Carrybacks	40
	9.3 Tax Cooperation	40
	9.4 Refunds	41
	9.5 Amended Returns	41
	9.6 Section 338 Election	41
	9.7 Treatment of Payments Under Section 2.4	41
10.	REMEDIES FOR BREACHES OF THIS AGREEMENT	41
	10.1 Survival of Representations, Warranties and Covenants	41
	10.2 Indemnification	41
	10.3 Indemnification Procedures	43
	10.4 No Liability or Contribution by the Target Companies	43
	10.5 Exclusive Remedy	43
11.	MISCELLANEOUS	44
	11.1 Termination	44
	11.2 Effect of Termination	44
	11.3 Sales, Transfer, and Documentary Taxes	45
	11.4 Expenses	46
	11.5 Contents of Agreement; Amendment	46
	11.6 No Assignment	46
	11.7 Waiver	46
	11.8 Notices	46
	11.9 Governing Law	48
	11.10 Consent to Jurisdiction	48
	11.11 No Benefit to Others	48
	11.12 Headings; Construction	48
	11.13 Disclosure Schedule, Schedules, and Exhibits	48
	11.14 Severability	48
	11.15 Stockholders' Representative	49
	11.16 Counterparts	50
	11.17 Specific Performance	50

		Page
Exhibits	Description	
Exhibit A	Target Subsidiaries	A-1
Exhibit B	Buyer Officer's Certificate	B-1
Exhibit C	Company Officer's Certificate	C-1
Exhibit D	Disclosure Schedule	D-1
Exhibit E	Sellers' Counsel Legal Opinion	E-1
Exhibit F	Escrow Agreement	F-1
Exhibit G	Company Secretary's Certificate	G-1
Exhibit H	Target Subsidiary's Secretary's Certificate	H-1
Exhibit I	Form of Release/Resignation for Barry H. Feinberg	I-1
Exhibit J	Form of Release/Resignation for Raymond C. French	J-1
Exhibit K	Seller's Pro Rata Share	K-1

Additional Schedules

Schedule I	List of Sellers
Schedule 6.1	Certain Pre-Closing Matters
Schedule 7.7	Consents, Assigned Contracts, Etc.

SHARE PURCHASE AGREEMENT

This SHARE PURCHASE AGREEMENT (this “Agreement”) is made as of July 25, 2005 by and among Consolidated Vision Group, Inc., a Delaware corporation (the “Company”), the Sellers listed on Schedule I attached hereto (the “Sellers”), and National Vision, Inc., a company incorporated under the laws of the State of Georgia (the “Buyer”). Each of the Sellers, the Company and the Buyer may be hereinafter referred to as a “Party” and jointly as the “Parties.”

BACKGROUND

The Buyer desires to purchase from the Sellers, and the Sellers desire to sell to the Buyer, all of the issued and outstanding shares of capital stock (the “Shares”) of the Company. The Company together with its subsidiaries identified on Exhibit A (each, a “Target Subsidiary,” and collectively, the “Target Subsidiaries”), are collectively referred to herein as the “Target Companies.”

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, and intending to be legally bound, the Parties hereto hereby agree as follows:

1. Definitions. Certain terms used in this Agreement are listed in alphabetical order and defined or referred to below (and correlative terms shall have correlative meanings).

“280G Approval” is defined in **Section 6.2(d)**.

“280G Materials” is defined in **Section 6.2(d)**.

“Ableco Financing” means the Company’s financing with Ableco Finance LLC pursuant to the Amended and Restated Financing Agreement by and between Ableco Finance LLC, as Collateral Agent and Administrative Agent, America’s Best Contacts & Eyeglasses, Inc., CVG Product Services, Inc., as Borrowers, and Consolidated Vision Group, Inc., TSO Retail Holdings, Inc. as Guarantors, dated as of December 30, 2004.

“Aboveground Storage Tank” shall have the meaning ascribed to such term in RCRA, or any other applicable Environmental Law.

“Accounts Receivable” is defined in **Section 3.10**.

“Affiliate” means, with respect to any specified Person, any other Person which directly or indirectly through one or more Persons controls, or is controlled by, or is under common control with, such specified Person; provided, however, that no Professional Corporation will be deemed to be an Affiliate of any of the Target Companies or the Sellers for the purposes of this definition. For the purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person directly or indirectly, whether through the ownership of voting stock, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” means this Agreement and the Exhibits and Schedules attached hereto.

“Arbiter” is defined in **Section 2.5(c)**.

Consolidated Vision Group, Inc
Strictly Confidential

“Balance Sheet” is defined in **Section 3.7**.

“Balance Sheet Date” is April 2, 2005.

“Benefit Plans” are defined in **Section 3.20(a)**.

“Books and Records” are defined in **Section 7.1**.

“Business Day” means any day when banks in New Jersey, New York and Pennsylvania are open for conducting general commercial business.

“Buyer” is defined in the preamble.

“Buyer Officer’s Certificate” means a certificate substantially in the form of Exhibit B attached hereto.

“Buyer Indemnatee” is defined in **Section 10.2(a)**.

“Cancelled Agreements” is defined in **Section 7.13**.

“Closing” is defined in **Section 2.2**.

“Closing Date” is defined in **Section 2.2**.

“Closing Date Balance Sheet” is defined in **Section 2.5(b)**.

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

“Company” is defined in the **Recitals**.

“Company Officer’s Certificate” means a certificate substantially in the form of Exhibit C attached hereto.

“Company Option Plan” means the Company’s Amended and Restated Stock Incentive Plan dated as of September 24, 2003.

“Company Options” means all outstanding options to acquire capital stock or any other equity interest in the Target Companies, whether granted under the Company Option Plan or otherwise.

“Confidential Information” means any confidential, proprietary business information or data belonging to or pertaining to the Target Companies that does not constitute a “Trade Secret” (as hereinafter defined) and that is not generally known by or available through legal means to the public, including, but not limited to, information regarding the Target Companies’ customers or actively sought prospective customers, suppliers, manufacturers and distributors gained by any Seller as a result of their relationship with the Target Companies.

“Confidentiality Agreement” means the Confidentiality Agreement dated June 3, 2004 executed by the Buyer in favor of the Company and the Sellers.

“Deductible” is defined in **Section 10.2(b)**.

“Discharge” means any manner of spilling, leaking, dumping, discharging, releasing, migrating or emitting, as any of such terms may further be defined in any Environmental Law, into or through any medium including, without limitation, ground water, surface water, land, soil or air.

“Disclosure Schedule” means any of the schedules set forth in Exhibit D attached hereto containing information relating to the Target Companies or other Parties and exceptions to the representations and warranties set forth in **Section 3** and other provisions hereof. The **Disclosure Schedules** are arranged in paragraphs corresponding to the numbered sections in this Agreement. Any specific disclosure set forth under one section of the **Disclosure Schedules** will be deemed disclosed for purposes of each additional section of the **Disclosure Schedules**, provided such disclosure is made in a manner as to make its relevance with respect to any such additional section of the **Disclosure Schedules** reasonably apparent.

“Encumbrance” is defined in **Section 3.6**.

“End Date” means the date which is one hundred and twenty (120) days from the date of this Agreement; provided that, at Buyer’s election, such date may be extended to a date which is no later than one hundred and fifty (150) days from the date of this Agreement.

“Environmental Laws” means all federal, state, local or foreign statutes, laws, rules, regulations, codes, ordinances, decrees, orders or rulings currently in existence, any of which govern or relate to pollution, protection of the environment, public health and safety, air emissions, water discharges, waste disposal, hazardous or toxic substances, solid or hazardous waste or occupational health and safety.

“Environmental Permits” means, all environmental, health and safety permits, licenses, certificates, authorizations, approvals, decrees, orders and registrations required under the Environmental Laws.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” is defined in **Section 3.20(a)**.

“Escrow Agent” is defined in **Section 2.3(b)(i)(A)**.

“Escrow Agreement” is defined in **Section 2.3(b)(i)(A)**.

“Escrow Amount” is defined in **Section 2.3(b)(i)(A)**.

“Escrow Funds” means the funds held by the Escrow Agent pursuant to the Escrow Agreement, relating to the \$6,000,000 amount deposited on the Closing Date pursuant to **Section 2.3(b)(i)(A)(ii)**, that may be available at any particular time to satisfy any claims for indemnification made by the Buyer pursuant to this Agreement.

“Facilities” means any facilities (including real property) presently or formerly owned, operated or leased by the Target Companies.

“Financial Statements” is defined in **Section 3.7**.

“Financing Commitments” is defined in **Section 5.5**.

“GAAP” means U.S. generally accepted accounting principles.

“Governmental Authority” means any federal, state or local government or any court, administrative agency or commission or other governmental or regulatory agency or authority.

“Handle” means any manner of generating, accumulating, storing, treating, disposing of, transporting, transferring, labeling, handling, manufacturing or using, as any of such terms may further be defined in any Environmental Law.

“Hazardous Substances” shall be construed broadly to include any toxic or hazardous substance, material or waste, and any other contaminant, pollutant or constituent thereof, including, without limitation, petroleum or petroleum products, the presence of which requires investigation or remediation under any Environmental Laws.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (United States), as amended, and the rules and regulations thereunder.

“Indemnified Party” is defined in **Section 10.2(b)**.

“Indemnifying Party” is defined in **Section 10.2(b)**.

“Industry Laws” means Laws governing or applicable to any or all of (a) the marketing and sale of all optical products and other offerings by the Target Companies, (b) the manufacture of optical goods and the ownership and operation of an optical laboratory, (c) opticians and retail optical stores, (d) optometrists, professional corporations and managed care entities, (e) contractual arrangements between or among (and the configuration of premises occupied by) any of the foregoing kinds of Persons, and (f) the advertising of the products and services sold or provided by any of the foregoing kinds of Persons.

“Initial Adjustment” is defined in **Section 2.5(a)**.

“Intellectual Property” means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, slogans, trade names, corporate names and Internet domain names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications, registrations, and renewals in connection therewith, (e) all Trade Secrets, (f) all computer software (including enhancements thereof and modifications thereto, source code, executable code, data, databases, and related documentation, but excluding “off the shelf” software), (g) all advertising and promotional materials, (h) all other proprietary rights, and (i) all copies and tangible embodiments thereof (in whatever form or medium).

“IRS” means the U.S. Internal Revenue Service.

“ISRA” is defined in **Section 6.2(b)**.

“ISRA Clearance” is defined in **Section 6.2(b)**.

“Jefferies” is defined in **Section 3.23**.

“Landlord Approval” is defined in **Section 3.11(c)**.

“Law” means any code, law (including common law), ordinance, zoning ordinance, building code, use restriction, regulation, reporting or licensing requirement, rule, or statute applicable to a Person or its assets, liabilities, business, or use of owned or leased real property, including those promulgated, interpreted or enforced by any Governmental Authority.

“Leases” means the leases and all agreements related thereto, including, without limitation, all amendments, modifications, and assignments, for the properties set forth on **Section 3.11 of the Disclosure Schedules**.

“Letter of Non-Applicability” is defined in **Section 6.2(b)**.

“Licenses or Other Authorizations” is defined in **Section 3.16(b)**.

“Loss” is defined in **Section 10.2(a)(i)**.

“Material Adverse Effect” means any change, effect, event, occurrence, state of facts or development that is, individually or together with any other change, effect, event, occurrence, state of facts or development, materially adverse to the condition (financial or otherwise), business and properties of the Target Companies, taken as a whole, or that could materially impair the ability of the Company to perform its obligations under this Agreement and to consummate the transactions contemplated hereby; provided, however, that none of the following shall be deemed, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Material Adverse Effect: (a) any adverse change, effect, event, occurrence, state of facts or development to the extent attributable to the announcement or pendency of the transactions contemplated by this Agreement; (b) any adverse change, effect, event, occurrence, state of facts or development attributable to conditions affecting (i) the industry in which the Target Companies operate or (ii) the U.S. economy as a whole that, in either case, do not disproportionately affect the Target Companies; or (c) any adverse change, effect, event, occurrence, state of facts or development resulting from or relating to (i) actions disclosed in the **Disclosure Schedules** that are required to be taken under applicable laws, rules, regulations, or agreements, (ii) specific actions expressly consented to in writing by the Buyer, (iii) the acts or omissions of, or on behalf of, the Buyer, or (iv) acts of war, terrorism, or other similar conflict that do not disproportionately affect the Target Companies.

“Material Contract” is defined in **Section 3.18**.

“Mortgages” is defined in **Section 3.11(b)**.

“NJDEP” is defined in **Section 6.2(b)**.

“Party” and “Parties” are defined in the preamble.

“PBGC” is defined in **Section 3.20(b)**.

“Permitted Encumbrances” are defined in **Section 3.9**.

“Person” means an individual, a partnership, a corporation, limited liability company, an association, a joint stock company, a trust, a joint venture or an unincorporated organization.

“Post-Closing Adjustment” is defined in **Section 2.5(d)**.

“Preliminary Closing Date Working Capital Statement” is defined in **Section 2.5(a)**.

“Products” is defined in Section 3.24.

“Professional Corporations” means the optometric professional corporations listed on **Section 3.26 of the Disclosure Schedule**.

“Purchase Price” is defined in **Section 2.1**.

“RCRA” means the Resource Conservation and Recovery Act.

“Real Property” is defined in **Section 3.11(a)**.

“Registered Intellectual Property” is defined in **Section 3.21**.

“Released Buyer Claims” is defined in **Section 7.10(b)**.

“Released Claims” is defined in **Section 7.10**.

“Sellers” are defined in the preamble.

“Shares” are defined in the **Recitals**.

“Stockholders’ Representative” is defined in **Section 11.15(a)**.

“Straddle Period” is defined in **Section 9.1**.

“Target Amount” shall mean negative \$9,496,212.

“Target Companies” are defined in the **Recitals**.

“Target Subsidiary” and “Target Subsidiaries” are defined in the **Recitals**.

“Tax” means any taxes, duties, assessments, fees, levies, or similar governmental charges, together with any interest, penalties, and additions to tax, imposed by any taxing authority, wherever located (i.e. whether federal, state, local, municipal, or foreign), including, without limitation, all net income, gross income, gross receipts, net receipts, sales, use, transfer, franchise, privilege, profits, social security, disability, withholding, payroll, unemployment, employment, excise, severance, property, windfall profits, value added, ad valorem or occupation taxes.

“Tax Returns” mean all reports, returns, statements (including, without limitation, estimated reports, returns, or statements), and other similar filings relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Trade Secrets” means information or data of or about the Target Companies, including but not limited to technical or nontechnical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, strategic plans, products plans, or lists of actual or potential customers, distributees or licensees, information concerning the Target Companies’ finances, services, staff, contemplated acquisitions, marketing investigations and surveys, that (a) are not commonly known by or available to the public; (b) derive economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other Persons who can

obtain economic value from their disclosure or use; and (c) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy.

“Transferred Employees” are defined in **Section 7.6(a)**.

“Underground Storage Tank” shall have the meaning ascribed to such term in RCRA, or any other applicable Environmental Law.

“Warranty Expiration Date” means March 31, 2007.

“Working Capital Escrow” is defined in **Section 2.3(b)(i)(A)**.

2. Purchase and Sale; Closing.

2.1 Purchase and Sale. Subject to the terms and conditions contained in this Agreement, on the Closing Date the Sellers shall sell, assign, transfer, and deliver to the Buyer, and the Buyer shall purchase from the Sellers all of the Shares (which constitute all of the issued and outstanding capital stock of the Company) in exchange for a purchase price (the “Purchase Price”) equal to \$88,000,000, less the amounts in (a) through (d) below, and subject to adjustment as provided in **Section 2.5**:

(a) The amount required to pay in full on the Closing Date the indebtedness of the Target Companies owing in connection with the Ableco Financing, and all interest, fees, expenses and payments (including, in each case, prepayment penalties if any) incurred in connection with the termination of any such indebtedness on the Closing Date, as set forth in **Section 2.1(a) of the Disclosure Schedule**;

(b) The net cash amount paid pursuant to **Sections 2.4(a), (b) and (d)** plus any applicable withholding taxes;

(c) The amount required to pay the fees and expenses owing in connection with the transactions contemplated by this Agreement listed on **Section 2.4(c) of the Disclosure Schedule**; and

(d) The amount required to repay all deposits that the Target Companies are required to pay to Ocular Sciences, Inc. pursuant to the Amended and Restated Purchase and Sale Agreement by and between Ocular Sciences, Inc. and CVG Product Services, Inc., calculated on a net present value basis in accordance with the schedule set forth on **Section 2.1(d) of the Disclosure Schedule**.

2.2 Closing. The closing (the “Closing”) of the sale and purchase of the Shares shall take place at the offices of Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103, commencing at 10:00 a.m., local time, on the second Business Day following the satisfaction or waiver of all conditions to the obligations of the Parties to consummate the transactions contemplated by this Agreement (other than conditions with respect to actions each Party will take at the Closing), or such other date as the Buyer and the Sellers may mutually determine (the “Closing Date”). Unless otherwise agreed by the Parties in writing, the Closing will be deemed to have occurred at 12:01 a.m. local time on the Closing Date at the place of the Closing.

2.3 Deliveries at Closing. At the Closing:

(a) The Sellers and the Target Companies, as applicable, shall deliver to the Buyer:

(i) certificates for the Shares in negotiable form, duly endorsed in blank, or

with separate stock transfer powers attached thereto and signed in blank;

(ii) the Company Officer's Certificate;

(iii) The stock books, stock ledgers, minute books, and other corporate records of the Target Companies;

(iv) Resignations and releases dated the Closing Date of Barry H. Feinberg and Raymond C. French substantially in the forms attached hereto as **Exhibits I and J**, respectively, and such other resignations and/or releases in form and substance satisfactory to the Buyer of such other directors of the Target Companies as may be designated by the Buyer;

(v) All required assignments, permits, estoppels and consents pursuant to **Section 7.7**;

(vi) A certificate dated the Closing Date from the Company's Secretary substantially in the form attached hereto as **Exhibit G**;

(vii) A certificate dated the Closing Date from the Secretary of each Target Subsidiary substantially in the form attached hereto as **Exhibit H**;

(viii) Evidence of the termination and payment in full of the Abelco Financing, including without limitation a "pay-off" letter from Abelco;

(ix) Assignments by the employees listed on **Section 2.3 of the Disclosure Schedule** of any and all of their right, title and interest into any Intellectual Property of the Company;

(x) The documents from NJDEP required by **Section 6.2(b)** and the evidence of approval of any "parachute payments" under Section 280G of the Code required by **Section 6.2(c)**; and

(xi) The legal opinion of counsel to the Sellers substantially in the form attached hereto as **Exhibit E**;

(xii) Release documents with respect to all Mortgages, in recordable form and in a form and substance reasonably satisfactory to Buyer and its counsel, together with any additional documentation reasonably required to completely satisfy and release such Mortgages of record; and

(xiii) All other documents, instruments and writings required to be delivered by the Sellers or the Target Companies at or prior to the Closing Date pursuant to this Agreement or otherwise required in connection herewith.

(b) The Buyer shall deliver to the Sellers:

(i) The Purchase Price as calculated in accordance with **Section 2.1**, and subject to adjustment as set forth in **Section 2.5**, as follows:

(A) From the Purchase Price, the Buyer will deposit an amount equal to \$7,000,000 (the "Escrow Amount") with the escrow agent (the "Escrow Agent") designated in the escrow agreement (the "Escrow Agreement"), substantially in the form of Exhibit F hereto, to be entered into at the Closing by the Buyer, the Stockholders' Representative on behalf of the Sellers and the Escrow

Agent, which shall provide for: (i) an escrow of \$1,000,000 with respect to the purchase price adjustment set forth in **Section 2.5** (the “Working Capital Escrow”); and (ii) an escrow of \$6,000,000 beginning on the Closing Date and ending on the later to occur of the Warranty Expiration Date and the date that all claims by the Buyer Indemnitees against any Seller pursuant to **Section 10** or otherwise are finally adjudicated or resolved, as set forth in the Escrow Agreement; and

(B) The Buyer will pay to the Sellers in cash at the Closing by wire transfer of immediately available funds the balance of the Purchase Price, after deposit of the Escrow Amount, and subject to adjustment as provided in **Section 2.5**, to the accounts and in the amounts set forth in **Section 2.3(b) of the Disclosure Schedules**;

(ii) The Buyer Officer’s Certificate; and

(iii) All other documents, instruments and writings required to be delivered by the Buyer at or prior to the Closing Date pursuant to this Agreement or otherwise required in connection herewith.

(c) The Buyer shall pay the amounts set forth in **Section 2.1(a) of the Disclosure Schedules** to the lenders under the Ableco Financing to accounts set forth in such schedule.

2.4 Company Options; Post-Closing Deliveries.

(a) Upon Closing, and pursuant to the Company Option Plan and the terms of the Company Options, each unvested and/or unexercisable outstanding Company Option will immediately become vested and exercisable, and effective immediately after the Closing, every outstanding Company Option shall be cancelled by an instrument reasonably acceptable to the Buyer. Each holder of a Company Option shall be entitled to receive in exchange therefor cash in an amount equal to the product of (x) the number of shares of Company common stock subject to the Company Option and (y) the amount by which the per share cash consideration as set forth on **Section 2.4(x) of the Disclosure Schedules** exceeds the exercise price per share of such Company Option, less any applicable withholding taxes. The Buyer shall make, or cause the Target Companies to make, such cash payments to the holders of Company Options immediately following the Closing, less any applicable withholding taxes. All amounts owing to such holders, before withholding tax, are set forth in **Section 2.4(a) of the Disclosure Schedule**.

(b) The Buyer shall also pay or cause the Target Companies to pay, immediately following the Closing, to the holders of all rights to receive payments from any Target Company upon a change-in-control of any Target Company (including without limitation any deferred compensation payable to Raymond C. French) that are based on the amount paid in such change-in-control transaction, all amounts owing to such holders as set forth in **Section 2.4(b) of the Disclosure Schedule**, less any applicable withholding taxes, in complete satisfaction of all obligations of the Target Companies to such holders; and

(c) Immediately following the Closing, the Buyer shall pay the amounts set forth in **Section 2.4(c) of the Disclosure Schedule** in payment of the fees and the expenses owing in connection with the transactions contemplated by this Agreement to the accounts set forth in such schedule.

(d) The Buyer shall also pay or cause the Target Companies to pay, immediately following the Closing, the amounts set forth in **Section 2.4(d) of the Disclosure Schedule** to Barry H. Feinberg and Raymond C. French in full satisfaction of any of their respective bonus entitlements, less any applicable withholding taxes.

2.5 Adjustment to the Purchase Price.

(a) Determination of Preliminary Adjustment Amount. At least two business days prior to the Closing, the Sellers shall deliver a schedule showing the estimated difference, if any, between the net working capital balance as of the Closing Date calculated in accordance with **Schedule 2.5** and the Target Amount (such schedule, the “Preliminary Closing Date Working Capital Statement”). The Preliminary Closing Date Working Capital Statement shall be prepared in accordance with **Schedule 2.5** and in collaboration with the chief financial officer of Buyer, and shall represent a good faith estimate of the Sellers at the Closing. The Purchase Price payable at the Closing shall be adjusted at Closing, prior to any payment pursuant to **Section 2.3(b)**, on a dollar-for-dollar basis (the “Initial Adjustment”) to the extent that the net working capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement is greater or less than the Target Amount.

(b) Preparation and Review of Closing Date Balance Sheet. As soon as reasonably practical following (but not more than 60 days after) the Closing Date, the Sellers shall cause to be prepared a consolidated balance sheet of the Target Companies on a historical basis as of the Closing Date, with an accompanying schedule showing the difference, if any, between the net working capital balance as of the Closing Date calculated in accordance with **Schedule 2.5** and the net working capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement (such historical balance sheet and schedule, the “Closing Date Balance Sheet”). The Closing Date Balance Sheet will be prepared consistently with the Balance Sheet and in accordance with **Schedule 2.5**. The Buyer will assist the Sellers, and Sellers will consult and collaborate with the chief financial officer of the Buyer, in the Sellers’ preparation of the Closing Date Balance Sheet and provide full access to those books and records and working papers of the Company not in the possession of the Sellers. If an Arbiter is appointed pursuant to **Section 2.5(c)** below, the Buyer shall cause the Company’s and the Buyer’s accountants to provide the Arbiter with similar full access to such books and records. Within 30 days of receipt of the Closing Date Balance Sheet, the Buyer shall propose to the Sellers such adjustments (if any) therein as shall in the Buyer’s judgment be required to cause the Closing Date Balance Sheet to reflect fairly those items required to be included therein, in accordance with **Schedule 2.5**. Unless the Buyer notifies the Sellers in writing within such 30-day period of an objection to any item or computation set forth on the Closing Date Balance Sheet, specifying in reasonable detail the basis for such objection, the Closing Date Balance Sheet delivered to the Buyer by the Sellers shall be binding on the Parties.

(c) Dispute Resolution. Any dispute concerning the Closing Date Balance Sheet or any post-closing adjustment hereunder which cannot be resolved by the Parties within 30 days of the Sellers’ receipt of the Buyer’s proposed adjustments will be submitted no later than 45 days after such receipt for determination to an arbiter mutually acceptable to both Parties (the “Arbiter”) for resolution of the disputed items and determination of the Post-Closing Adjustment within 30 days after such Arbiter is appointed in such capacity. Any determination by the Arbiter shall be final and binding upon the Parties. Prior to referring the matter to the Arbiter, the Parties shall agree on the procedures to be followed by the Arbiter, including procedures with regard to the presentation of evidence. If the Parties are unable to agree upon procedures within the time prescribed for referral of the dispute to the Arbiter, the Arbiter shall establish such procedures giving due regard to the intention of the Parties to resolve disputes as quickly, efficiently and inexpensively as possible, which procedures may, but need not, be those proposed by either of the Parties. The Sellers and the Buyer shall each bear one-half of the fees, costs and expenses of the Arbiter selected in the event of a dispute. The determination by the Arbiter shall be based solely on presentations by the Sellers and the Buyer and shall not involve independent review.

(d) Payment of Post-Closing Adjustment. The Purchase Price shall be adjusted on a dollar-for-dollar basis (the “Post-Closing Adjustment”) to the extent that the net working capital balance as of the Closing Date as shown on the Closing Date Balance Sheet is greater or less than the net working

capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement in the following manner: Within five Business Days following the acceptance by the Buyer of the Closing Date Balance Sheet, the acceptance by the Sellers of the Buyer's proposed adjustments thereto or resolution of any Post-Closing Adjustment disputes pursuant to **Section 2.5(c)** above:

(i) if the net working capital balance as of the Closing Date as shown on the Closing Date Balance Sheet is at least \$100,000 greater than the net working capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement, the Buyer shall pay the Sellers, by wire transfer of immediately available funds to such accounts at such banks as the Sellers shall direct, as an increase in the Purchase Price paid at the Closing an amount equal to such excess; or

(ii) if the net working capital balance as of the Closing Date as shown on the Closing Date Balance Sheet is at least \$100,000 less than the net working capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement, the Buyer shall be entitled to make a claim against the Working Capital Escrow for an amount (which amount shall constitute a reduction in the Purchase Price paid at the Closing) equal to the amount of such deficiency; or

(iii) if the difference, if any, between the net working capital balance as of the Closing Date as shown on the Closing Date Balance Sheet and the net working capital balance as of the Closing Date as shown on the Preliminary Closing Date Working Capital Statement is less than \$100,000, then there is no Post-Closing Adjustment.

(e) If any payment required to be made pursuant to this **Section 2.5** is not made within the required five-day period, the Party required to make the payment shall pay 5% interest per annum on any outstanding balance.

(f) If the Buyer's claim pursuant to **Section 2.5(d)(ii)** exceeds the Working Capital Escrow, Buyer may make a claim against the Escrow Funds for such excess amount, in addition to its claim against the Working Capital Escrow, provided that such claims shall be Buyer's sole recourse as provided in **Section 10.5**.

3. Representations and Warranties Concerning the Company.

The Company hereby represents and warrants to the Buyer that the statements contained in this **Section 3** are correct and complete as of the date of this Agreement and will be correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this **Section 3**, except with respect to any updates to the **Disclosure Schedule** made in accordance with **Section 7.8** of this Agreement):

3.1 **Corporate Power; Enforceable Obligation.** The Company has the requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby to be performed by it. This Agreement has been duly authorized, executed, and delivered by the Company and is the legal, valid, and binding obligation of the Company enforceable against the Company in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other laws affecting the enforcement of creditors' rights in general, and except that the enforceability of the Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.2 **No Violations.** Except as set forth in **Section 3.2 of the Disclosure Schedule**, neither the execution, delivery, and performance of this Agreement by the Company nor the consummation of the transactions contemplated hereby will contravene or violate (a) any Law to which any Target Company is

subject, (b) any judgment, order, writ, injunction, or decree of any court, arbitrator, or Governmental Authority or agency that is applicable to any Target Company, or (c) the charter or organizational documents of any Target Company; nor will such execution, delivery, or performance (i) violate, be in conflict with, result in the breach of, or require the consent of any other party to, any Material Contract or any material governmental franchise, approval, license, permit or authorization, or give any party with rights thereunder the right to terminate, cancel, modify, accelerate, or increase the rights or obligations of any Target Company thereunder, (ii) cause any acceleration of the maturity of any material note, instrument or other obligation to which any Target Company is a party or by which any Target Company is bound or with respect to which any Target Company is an obligor or guarantor or (iii) result in the creation or imposition of any material lien, claim, charge, restriction, equity or encumbrance of any kind whatsoever upon or give to any other Person any interest or right (including any right of termination or cancellation) in or with respect to any of the properties, assets, business, agreements or contracts of any Target Company.

3.3 Consents and Approvals. Except for any filings that may be required to comply with the HSR Act, no authorization, approval, or consent of, and no registration or filing with, any Governmental Authority is required to be made or obtained by any Target Company in connection with the execution, delivery, and performance of this Agreement by the Company.

3.4 Corporate Existence. Each Target Company is a corporation, and is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization. Each Target Company has all requisite corporate or other power and authority and possesses all material governmental franchises, approvals, licenses, permits and authorizations necessary to enable it to own, lease or otherwise hold its properties and assets and to carry on its business as presently conducted. Each Target Company is duly qualified to do business and is in good standing (with respect to jurisdictions which recognize such concept) as a foreign corporation or other legal entity in each jurisdiction where the character of the properties owned or leased by it or the nature of the business transacted by it requires it to be so qualified, except where the failure to be so qualified could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Target Companies have previously furnished to the Buyer true, correct and complete copies of: (i) the minutes and other similar records of meetings of the stockholders of the Target Companies and their boards of directors, which contain all records of meetings and actions taken in lieu thereof by the Target Companies' stockholders and boards of directors and show all corporate actions taken by the Target Companies' stockholders and boards of directors (and any committees thereof), and (ii) the share transfer records, which reflect fully all issuances, transfers and redemptions of the Target Companies' shares since the dates of their respective incorporations. **Section 3.4 of the Disclosure Schedule** lists the directors and officers of each Target Company.

3.5 Capitalization.

(a) **Section 3.5 of the Disclosure Schedule** sets forth each Target Company, its jurisdiction of organization, its authorized capital stock or other equity interests, the amount of its outstanding capital stock or other equity interests (including without limitation rights to equity interests such as options, warrants and rights, and derivative securities) and the record owner(s) of its outstanding capital stock or other equity interests. Except for the Shares and as set forth in **Section 3.5 of the Disclosure Schedule**, there are no issued and outstanding shares of capital stock of or equity interests in any Target Company. Except as set forth in **Section 3.5 of the Disclosure Schedule**, no Target Company has outstanding, or is bound by, any subscription, option, warrant, or other right, call, or commitment to issue, or any obligation or commitment to purchase, any of its authorized capital stock or other equity interest or any securities convertible into or exchangeable for any of its authorized capital stock or other equity interest. Except as set forth in **Section 3.5 of the Disclosure Schedule**, (a) there are no

outstanding or authorized stock appreciation, phantom stock, profit participation, or similar rights with respect to any Target Company, and (b) there are no voting trusts, proxies, or other agreements or understandings with respect to the voting of the capital stock of any Target Subsidiary, or, to the knowledge of the Company, the Company.

(b) All of the Shares and all of the outstanding capital stock or other equity interests of the Target Subsidiaries have, to the extent applicable, been duly authorized and validly issued, are fully paid and nonassessable, and are owned of record (and, with respect to the Target Subsidiaries, beneficially) by the record owners set forth on the **Section 3.5 of the Disclosure Schedule**, and, with respect to the shares of capital stock of the Target Subsidiaries, are owned by the Company. All of the outstanding Shares were authorized, offered, issued and sold in accordance with all applicable securities laws. No Person has any preemptive rights with respect to shares of the Company. The terms of all Company Options permit the disposition of Company Options contemplated in **Section 2.4** without the consent of the holders of such Company Options. The estimated amount required to dispose of all Company Options pursuant to **Section 2.4** is set forth in **Section 2.4(a) of the Disclosure Schedule**. The Target Companies have previously provided to the Buyer true, accurate and complete copies of all documents pertaining to the subject matter of the preceding two sentences.

3.6 Subsidiaries. Other than the Target Subsidiaries and except as disclosed in **Section 3.6 of the Disclosure Schedule**, there are no corporations or other legal entities in which any Target Company owns, directly or indirectly, any shares of capital stock or equivalent equity interests. The Company is the legal and beneficial owner of all the shares of capital stock of the Target Subsidiaries and has now, and at the Closing and immediately thereafter will have, good and valid title to such shares, free and clear of any liens, pledges, charges, encumbrances, security interests, restrictions on transfer, claims, or options of any nature whatsoever (collectively, "Encumbrances").

3.7 Financial Statements. **Section 3.7 of the Disclosure Schedule** sets forth (i) the audited consolidated balance sheets of the Company as of each of January 1, 2005, and January 3, 2004 and the related consolidated statements of income and cash flows for the annual periods ended January 1, 2005, and January 3, 2004, with the accompanying audit reports, (ii) the unaudited consolidated balance sheet of the Company as of December 28, 2002 and the related unaudited consolidated statements of income and cash flows for the twelve-month period then ended, and (iii) the unaudited consolidated balance sheet of the Company as of April 2, 2005 (the "Balance Sheet") and the related unaudited consolidated statements of income and cash flows for the 3-month period then ended (collectively, including, unless otherwise indicated, any notes thereto, the "Financial Statements"). Except as described in **Section 3.7 of the Disclosure Schedule**, the Financial Statements have been prepared in conformity with GAAP applied on a consistent basis (subject to normal year-end adjustments and, in the case of any unaudited Financial Statements, the lack of footnotes) and on that basis present fairly, in all material respects, the consolidated financial condition and consolidated results of operations as of the dates thereof and for the periods indicated of the Target Companies. The Financial Statements have been prepared from the books and records of the Target Companies, and such books and records are complete and correct in all material respects, accurately reflect all transactions of the Target Companies in all material respects, and have been made available to the Buyer for examination.

3.8 Inventory. The inventory of the Target Companies reflected in the Balance Sheet and to be reflected in the Closing Date Balance Sheet, is and will be, as the case may be, of good, useable and merchantable quality in all material respects and generally fit for the purpose for which it was procured or manufactured, is saleable in the ordinary course of business, and is not slow-moving, obsolete, damaged, or defective, except to the extent written down or reserved against in the Balance Sheet or to be written down or reserved against in the Closing Date Balance Sheet. The quantities of inventory (whether raw

materials, work-in-process, or finished goods) are not excessive, and are reasonable in the present circumstances of the Target Companies.

3.9 Assets.

(a) The Target Companies have good and valid title to all of their assets and properties, real, personal and mixed, reflected on the Balance Sheet, and to all other material assets and properties, real, personal and mixed, used in the business of the Target Companies, in each case free and clear of Encumbrances, except for (a) liens for Taxes and assessments not yet due and payable, (b) liens for Taxes, assessments, and other charges, if any, the validity of which is being contested in good faith by appropriate action as set forth in **Section 3.9 of the Disclosure Schedules**, (c) liens of employees and laborers for current wages not yet due, and (d) all matters of record set forth in **Section 3.9 of the Disclosure Schedules** (collectively, the “Permitted Encumbrances”).

(b) All material furniture, fixtures, equipment, machinery, leasehold improvements computers, software, information systems, vehicles and other tangible personal property which are owned or leased by the Target Companies are in good condition and repair, subject to normal wear and tear, suited for the use intended and are and have been used in conformity in all material respects with all applicable Laws. To the knowledge of the Company, there are no defects or conditions which would cause such tangible personal property to be or become inoperable or unsafe. To the knowledge of the Company, all lessors of machinery, equipment or other tangible personal property leased by the Target Companies have performed and satisfied their respective duties and obligations under such leases in all material respects. The Target Companies have not brought or threatened any action, proceeding or claim against any such lessor for failure to perform and satisfy its duties and obligations thereunder.

3.10 Accounts Receivable. The accounts receivable reflected in the Balance Sheet and to be reflected in the Closing Date Balance Sheet (the “Accounts Receivable”) are and will be, as the case may be, bona fide accounts receivable created in the ordinary course of business in connection with bona fide transactions. Except as described in **Section 3.10 of the Disclosure Schedule**, no accounts receivable held by the Company have been the subject of any factoring. To the Company’s knowledge, unless paid prior to the Closing Date, the Accounts Receivable are or will be as of the Closing Date current and collectible net of the respective reserves shown on the Balance Sheet or the Closing Date Balance Sheet (which reserves are adequate and calculated consistent with past practice).

3.11 Real Property.

(a) No Target Company owns any real property. **Section 3.11 of the Disclosure Schedule** lists all real property leased by the Target Companies (collectively, the “Real Property”). Other than the Real Property, no Target Company currently possesses, uses, leases or operates any real property.

(b) The Sellers have delivered or made available to the Buyer true, correct and complete copies of all of the agreements (the “Leases”) by which the Target Companies lease each parcel of Real Property specified in **Section 3.11 of the Disclosure Schedule**. **Section 3.11 of the Disclosure Schedule** sets forth the expiration date of all Leases. All rents due under the Leases have been paid. All of the Leases are in full force and effect and are enforceable in accordance with their terms. Except as set forth in **Section 3.11 of the Disclosure Schedule**, the Target Companies and each other party thereto have performed all of the material obligations required to be performed by them, have received no notice of default and the Target Companies have not taken or failed to take any action that, with the giving of notice, the passage of time or both would constitute a breach, violation or default of or under any Lease. The Target Companies have no present expectation or intention of not fully performing all their material obligations under each of the Leases, and there has not been any material breach or anticipated breach by

the other party to any of the Leases. Except as set forth in **Section 3.11 of the Disclosure Schedule**, none of the Leases have been terminated or have expired by their terms; no notice has been given by any party thereto of any alleged default by any party thereunder; and the Company is not aware of any intention or right of any party to declare another party to any of the Leases to be in default. There exists no actual or threatened termination, cancellation or limitation of the business relationship of the Target Companies with any party to any of the Leases. Except as set forth in **Section 3.11 of the Disclosure Schedule**, no Target Company has (a) assigned any of the Leases or has subleased, licensed, or otherwise granted to any Person the right to use or occupy the Real Property or any portion thereof, except with respect to the Professional Corporations, (b) collaterally assigned or granted any other Encumbrances in any Lease or any interest therein or (c) granted any mortgage, deed of trust, deed to secure debt, or other conveyance or lien or encumbrance against any Real Property or against its interest under any Lease as security for any debt, or for any other reason (collectively, "**Mortgages**"). All Real Property and the use and occupancy of the Real Property by each Target Company, to its knowledge, comply with all Laws, Industry Laws and Environmental Laws.

(c) Except as provided on **Schedule 3.11 of the Disclosure Schedule**, the transfer of the Shares contemplated by this Agreement, and the resulting change of control of the Company, will not result in any default or penalty under or any modification to any Lease, and shall not require prior landlord approval under the terms of any Lease (a "**Landlord Approval**").

3.12 **Bank Accounts.** **Section 3.12 of the Disclosure Schedule** sets forth (a) the names and locations of all banks, trust companies, savings and loan associations and other financial institutions at which each Target Company maintains safe deposit boxes, checking accounts or other accounts of any nature and (b) the names of all persons authorized to draw thereon, make withdrawals therefrom or have access thereto, and the account numbers of all such accounts.

3.13 **Compensation Arrangements.** **Section 3.13 of the Disclosure Schedule** sets forth the names and current annual salaries, including any applicable bonus, of all present officers, employees, and independent contractors of any of the Target Companies (other than optometrists employed or under contract to the Target Companies or to the Professional Corporations) whose current annual salary or other remuneration, including any target bonus payable pursuant to any plan or agreement (or if the Person does not have a target bonus, including the bonus actually paid for fiscal year 2004), equals or exceeds \$100,000, together with a statement of the full amount of all remuneration paid by any of the Target Companies to each such Person and to any director of any such Target Company related to the year ended January 1, 2005.

3.14 **Absence of Undisclosed Liabilities.** Except as set forth in **Section 3.14 of the Disclosure Schedule**, since the Balance Sheet Date, the Target Companies have not incurred any material liabilities or obligations except for liabilities and obligations (i) reflected on the Financial Statements and not previously paid or discharged, or (ii) incurred since the Balance Sheet Date in the ordinary course of business consistent with past practice. There is no pending, or to the knowledge of the Company, threatened claim by any director or officer of any of the Target Companies for indemnification by any of the Target Companies. The indebtedness for borrowed money listed in **Section 2.1(a) of the Disclosure Schedule** will on the Closing Date constitute all of the indebtedness for borrowed money of the Target Companies as of the Closing Date. The fees and expenses of the Target Companies and the Sellers set forth in **Section 2.4(c) of the Disclosure Schedule** will constitute all of the fees and expenses of the Target Companies and the Sellers in connection with the transactions contemplated by this Agreement. The deposit repayment schedule set forth in **Section 2.1(d) of the Disclosure Schedules** accurately reflects the Company's deposit repayment obligations to Ocular Sciences, Inc.

3.15 Absence of Changes or Events. Except as otherwise contemplated by this Agreement or such actions as have been taken in connection with the transactions contemplated hereby, since the Balance Sheet Date the business of the Target Companies has been conducted in the ordinary course consistent with past practices and (without limiting the generality of the foregoing) there has not been, except as set forth in **Section 3.15 of the Disclosure Schedule**:

(a) any event, occurrence, development or state of circumstances or facts that has or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) any declaration, setting aside or payment of any dividend or other distribution with respect to any shares of capital stock of the Target Companies or any repurchase, redemption or other acquisition by any of the Target Companies of any outstanding shares of capital stock or other securities of, or other ownership interests in, the Target Companies;

(c) any payments, reimbursements or any other distributions of any nature whatsoever from the Target Companies to the Sellers or any of their Affiliates;

(d) any amendment of any material term of any outstanding security of the Target Companies;

(e) any incurrence, assumption or guarantee by any Target Company of any indebtedness other than (i) under the Ableco Financing, (ii) trade payables and accrued liabilities in the ordinary course of business, or (iii) indebtedness incurred in the ordinary course of business consistent with past practice and either reflected on the Closing Date Balance Sheet or satisfied prior to Closing;

(f) any making of any loan or capital contribution to or investment in any Person;

(g) any change in any method of accounting, method of Tax accounting or accounting principles or practice by any of the Target Companies, except for any such changes required by reason of a concurrent change in GAAP, or other applicable law or regulation, or any revocation or modification of any material Tax elections;

(h) any adoption or amendment in any respect of any bonus, profit sharing, compensation, severance, termination, stock option, stock appreciation right, pension, retirement, employment or other employee benefit trust or plan;

(i) any increase by any Target Company of any bonuses, salaries, or other compensation to any stockholder, director, officer, independent contractor or (except in the ordinary course of business) employee, or entry into any employment, severance, or similar contract with any director, officer, or (except in the ordinary course) employee;

(j) any material damage, destruction to or loss of property, whether or not covered by insurance;

(k) any amendment to the certificates of incorporation or bylaws of the Target Companies;

(l) any discontinuance or determination to discontinue the sales or manufacture of any products or services previously sold by the Target Companies, the sales of which have been material to the Target Companies;

(m) any sale, transfer, lease or other disposition of any asset of the Target Companies to any director or officer of a Target Company, any Seller or any Affiliates of the foregoing Persons or, except in the ordinary course of the Company's business, to any other Person, and no debt to, or material claim or right of, the Target Companies has been canceled, compromised, waived or released outside of payment terms granted in the ordinary course of business;

(n) any delay or postponement of the payment of any accounts payable or other liabilities, outside of the ordinary course of business;

(o) any agreement, contract, license, lease or similar agreement outside the ordinary course of business or involving more than \$100,000 in payments, excluding any Leases or any agreement with an optometrist entered into in the ordinary course of business;

(p) the granting of any Encumbrance on any of the assets of any Target Company, except in the ordinary course of business consistent with past practice;

(q) any capital expenditure or series of related capital expenditure either involving more than \$250,000 or outside the ordinary course of business;

(r) any compromise, waiver, or release or any right or claim either involving more than \$100,000 or outside the ordinary course of business;

(s) the transfer, assignment, or grant of any license or sublicense of any rights under or with respect to any Intellectual Property;

(t) the grant of any options, warrants, or other rights to purchase or obtain any capital stock of any Target Company;

(u) any change in the authorized, issued or outstanding capital stock or other securities of the Target Companies;

(v) the granting of any Mortgages;

(w) the termination, assignment or modification of, or amendment to, any Lease; or

(x) any oral or written agreement to cause any of the foregoing events to occur.

3.16 Compliance with Law. Except as described on **Section 3.16 of the Disclosure Schedule**:

(a) each of the Target Companies has complied in all material respects with each, and is not in material violation of any, Law or Industry Law to which it is subject, and has not failed in any material respect to obtain or adhere to the requirements of any material license, permit, or other governmental authorization necessary to the ownership of the Target Companies' assets and properties or to the conduct of the Target Companies' businesses;

(b) the Target Companies hold all valid licenses and other rights, permits, authorizations, registrations, consents and approvals required by law, ordinance, regulation or ruling of any Governmental Authority which are material to operating their business as now conducted and as currently proposed to be conducted (collectively, the "Licenses or Other Authorizations"). No material violation, default, order or deficiency exists with respect to any of the Licenses or Other Authorizations, and the Target Companies are in good standing in connection therewith. The Target Companies have not

received any notice of any action pending or recommended by any state or federal agencies having jurisdiction over the Licenses or Other Authorizations, either to revoke, withdraw or suspend any License or Other Authorization or to enjoin activities for which such License or Other Authorization is required under applicable law. No event has occurred which, with the giving of notice, the passage of time, or both, would constitute grounds for a material violation, order or deficiency with respect to any of the Licenses or Other Authorizations or to revoke, withdraw or suspend any such License or Other Authorization; and

(c) the Target Companies have not during the past three (3) years, been the subject of any inspection, investigation, survey, audit, monitoring or other form of review by any Governmental Authority, professional review organization, accrediting organization or certifying agency based upon any alleged improper activity on the part of the Target Companies, and the Target Companies have not received any notice of material deficiency during the past three years in connection with its operations; there are not presently, and at the Closing there will not be, any outstanding material deficiencies, plans of correction or work orders of any Governmental Authority having jurisdiction over the Target Companies, requiring conformity to any applicable agreement, statute, regulation, ordinance or bylaw; and to the knowledge of Company, there is not any notice of any claim, requirement or demand of any licensing or certifying agency or other third party supervising or having authority over the Target Companies or its operations to rework or redesign any part thereof so as to conform to or comply with any existing law, code, rule, regulation or standard.

3.17 Litigation. Except as described in **Section 3.17 of the Disclosure Schedule**, no Target Company or Professional Corporation is a party to any pending or, to the knowledge of the Company, threatened litigation, arbitration, investigation, or other proceeding of or before any court, arbitrator, or governmental, regulatory, or administrative official, body, or authority. Furthermore, there is no pending or, to the knowledge of the Company, threatened, litigation, arbitration, investigation, or other proceeding involving any Target Company or Professional Corporation of or before any court, arbitrator, or governmental, regulatory, or administrative official, body, or authority that is reasonably likely to prevent or materially delay the consummation by the Company of the transactions contemplated by this Agreement. No claims for indemnification are pending or, to the knowledge of the Company, threatened against the Target Companies, and none have ever been made against the Target Companies.

3.18 Material Contracts.

(a) Except as set forth in **Section 3.18 of the Disclosure Schedule**, no Target Company is a party to any written contracts of the following types (each, a “Material Contract”):

(i) contracts with Sellers or any of their Affiliates (other than the Target Companies);

(ii) contracts with any of the Professional Corporations;

(iii) collective bargaining agreements with any labor union;

(iv) employment or consulting contracts or any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance, or other plan or arrangement for the benefit of its current or former directors, officers, and employees, other than optometrists employed by or under contract to the Target Companies or the Professional Corporations;

(v) contracts involving an amount in excess of \$250,000 and requiring a Target Company to make the future purchase of, or payment for, supplies, products or services, other than the Leases set forth in **Section 3.11 of the Disclosure Schedule**;

(vi) contracts involving an amount in excess of \$100,000 and requiring a Target Company to sell or supply products or to perform services, other than the Leases set forth in **Section 3.11 of the Disclosure Schedule**;

(vii) partnership or joint venture agreements;

(viii) contracts limiting or restraining any Target Company from engaging or competing in any lines or business with any person, firm, corporation or other entity;

(ix) loan agreements, notes, mortgages, indentures, security agreements, letters of credit, capital leases or other contracts for the borrowing or lending of money by the Target Companies;

(x) other contracts requiring the Company to pay amounts in excess of \$250,000 and which cannot be terminated within one year without material cost, other than the Leases set forth in **Section 3.11 of the Disclosure Schedule**;

(xi) a power of attorney or similar authorization; and

(xii) licenses or similar agreements with respect to any Intellectual Property material to the Target Companies, except with respect to “off the shelf” software.

(b) Each Target Company has duly complied with its material obligations under each Material Contract. To the knowledge of the Company, no event has occurred which may be grounds for termination of any Material Contract. No Target Company is a party to any Material Contract of which it or, to the knowledge of the Company, any other party is materially in default or, but for the requirements of notice for lapse of time or both, would be materially in default. The Target Companies have no present expectation or intention of not fully performing all of its material obligations under each of the Material Contracts. To the knowledge of the Company, each Material Contract is legal, valid, binding, enforceable, and in full force and effect. To the Company’s knowledge, neither this Agreement nor the Closing has caused or is likely to cause the termination or nonrenewal of any Material Contract. **Schedule 7.7** sets forth all assignments, permits, and consents needed or advisable with respect to the Material Contracts in connection with the transactions contemplated by this Agreement.

3.19 Taxes. **Section 3.19 of the Disclosure Schedule** lists all the states and localities with respect to which the Target Companies have filed any Tax Returns. Except as set forth on **Section 3.19 of the Disclosure Schedule**:

(a) The Target Companies have filed all Tax Returns required to be filed by them by applicable Law. All such Tax Returns were in all material respects true, complete and correct and were filed on a timely basis (taking into account any extensions). The Target Companies have, within the time and manner prescribed by Law, paid all Taxes that are due and payable. There is no audit, examination or refund litigation currently in progress with respect to any Taxes. There are no Encumbrances (except Permitted Encumbrances) with respect to Taxes upon any of the assets of the Target Companies. The Target Companies have not executed an extension or waiver of any statute of limitations on the assessment or collection of any Tax due (excluding such statutes that relate to years currently under examination by the IRS or other applicable taxing authorities) that is currently in effect. The Target

Companies have furnished to the Buyer complete and accurate copies of all Tax Returns and any amendments thereto filed by the Target Companies for their last three (3) fiscal years, and all notices of assessment and all material correspondence with taxation authorities relating thereto. The Target Companies are not a party to any Tax allocation or sharing agreement nor have the Target Companies been members of an affiliated group filing a consolidated federal income Tax Return (other than a group comprised solely of the Target Companies), nor do the Target Companies have any liability for Taxes of any Person (other than another Target Company) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract.

(b) The provision for any Taxes due or to become due for the Target Companies for the period or periods through and including the date of the respective Financial Statements has been made and is reflected on the Financial Statements, and is sufficient to cover all such Taxes.

(c) The Target Companies are in material compliance with, and their records contain all information and documents necessary to materially comply with, all applicable information reporting and Tax withholding requirements under federal, state, and local Tax Laws.

(d) No Target Company is a “United States real property holding corporation” within the meaning of Section 897(c)(2) of the Code.

(e) The Target Companies have disclosed on their Tax Returns all positions taken therein that could, if not so disclosed, give rise to a substantial understatement penalty against the Target Companies within the meaning of Section 6662 of the Code. No Target Company has been a party to any “listed transaction” within the meaning of U.S. Treas. Reg. Sec. 1.6011-4(b).

(f) No Target Company will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date, (ii) intercompany transaction or excess loss account described in Treasury Regulations under Code Section 1502 (or any corresponding or similar provision of state, local or foreign income Tax law) made or created on or prior to the Closing Date, (iii) installment sale or open transaction disposition made on or prior to the Closing Date, or (iv) prepaid amount received on or prior to the Closing Date.

(g) No Target Company has distributed stock of another Person, or has had its stock distributed by another Person, in a transaction that was reported to be governed in whole or in part by Code Section 355.

3.20 Employee Benefit Matters.

(a) **Section 3.20 of the Disclosure Schedule** sets forth a true, correct and complete list of all current “employee benefit plans” as defined by Section 3(3) of ERISA, all current fringe benefit plans as defined in Section 6039D of the Code, and all other current bonus, incentive compensation, deferred compensation, profit sharing, stock option, stock appreciation right, stock bonus, stock purchase, employee stock ownership, savings, severance, change in control, supplemental unemployment, layoff, salary continuation, retirement, pension, health, life insurance, disability, accident, group insurance, vacation, holiday, sick leave, fringe-benefit or welfare plan, and any other employee compensation or benefit plan, agreement, policy, practice, commitment, contract or understanding (whether qualified or nonqualified, written or unwritten) and any trust, escrow or other agreement related thereto that (i) is maintained or contributed to by any Target Company, or with respect to which any Target Company has or may have any liability (collectively the “Benefit Plans”).

Section 3.20 of the Disclosure Schedule

identifies as such any Benefit Plan that is a plan intended to meet the requirements of Section 401(a) of the Code. Also set forth on **Section 3.20 of the Disclosure Schedule** is a true, correct and complete list of any other corporation or trade or business under common control with any Target Company (within the meaning of Section 414 of the Code or Section 4001(b) of ERISA) during the last six years ("ERISA Affiliate").

(b) The Target Companies have delivered to the Buyer true, accurate and complete copies of (i) the documents comprising each Benefit Plan (or, with respect to any Benefit Plan which is unwritten, a detailed written description of eligibility, participation, benefits, funding arrangements, assets and any other matters which relate to the obligations of any Target Company); (ii) all trust agreements, insurance contracts or any other funding instruments related to the Benefit Plans; (iii) all rulings, determination letters, no-action letters or advisory opinions from the IRS, the U.S. Department of Labor, the Pension Benefit Guaranty Corporation ("PBGC") or any other governmental agency that pertain to each Benefit Plan and any open requests therefor; (iv) the most recent actuarial and financial reports (audited and/or unaudited) and the annual reports filed with any government body with respect to the Benefit Plans during the current year and each of the three preceding years; (v) all securities registration statements or exemption requests or notices filed with respect to any Benefit Plan; (vi) all contracts with third-party administrators, actuaries, investment managers, consultants and other independent contractors that relate to any Benefit Plan; and (viii) all summary plan descriptions, summaries of material modifications and memoranda, employee handbooks and other written communications regarding the Benefit Plans.

(c) None of the Benefit Plans is, and at no time during the past six years has any Target Company or any ERISA Affiliate sponsored, contributed to or had any obligation to contribute to: (i) plans subject to Title IV of ERISA; or (ii) "multiemployer plans" as defined in Section 3(37) of ERISA.

(d) Each Target Company has timely paid in full all required insurance premiums, subject only to normal retrospective adjustments in the ordinary course, with regard to the Benefit Plans for all policy years or other applicable policy periods ending on or before the Closing Date. All contributions, premiums or other payments for the Benefit Plans attributable to periods prior to the Closing Date have been made within the time limits prescribed by ERISA or other applicable law. If any Benefit Plan were to be terminated on the day following the Closing Date, such termination would not subject the Buyer to any liability or tax.

(e) All contributions to or under each Benefit Plan and all expenses of each Benefit Plan are fully deductible for income tax purposes for the taxable year for which such contributions are made or such expenses are paid.

(f) Each of the Target Companies has, at all times, complied, and currently complies, in all material respects with the applicable continuation requirements for its welfare benefit plans, under (1) Section 4980B of the Code (as well as its predecessor provision, Section 162(k) of the Code) and Sections 601 through 608, inclusive, of ERISA, which provisions are hereinafter referred to collectively as "COBRA" and (2) any applicable state statutes mandating health insurance continuation coverage for employees.

(g) The form of all Benefit Plans is in compliance with the applicable terms of ERISA, the Code, and any other applicable laws, and such Benefit Plans have been operated in compliance with such laws and the written Benefit Plan documents. Neither any Target Company nor any fiduciary of a Benefit Plan has violated the requirements of Section 404 of ERISA. All reports required by any governmental agency and disclosures required to be made to participants and

beneficiaries with respect to the Benefit Plans have been timely filed or made and are true, correct and complete in all material respects. To the extent employees of the Professional Corporations are participating in any of the Benefit Plans, such participation is in compliance with the terms of the Benefits Plans and any related insurance policies and is permitted by applicable laws.

(h) Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination or opinion letter from the IRS that covers such Benefit Plan and all amendments to such Benefit Plan for which such a determination or opinion letter is currently available, and to the knowledge of each Target Company, there are no circumstances that will or could result in revocation of any such favorable determination or opinion letter. Each trust created under any Benefit Plan has been determined to be exempt from taxation under Section 501(a) of the Code, and no Target Company is aware of any circumstance that will or could result in a revocation of such exemption. Each Benefit Plan that is an “employee welfare benefit plan” (as defined in Section 3(1) of ERISA) that utilizes a funding vehicle described in Section 501(c)(9) of the Code or is subject to the provisions of Section 505 of the Code has been the subject of a notification by the IRS that such funding vehicle qualifies for tax-exempt status under Section 501(c)(9) of the Code or that the plan complies with Section 505 of the Code, unless the IRS does not, as a matter of policy, issue such notification with respect to the particular type of plan. With respect to each Benefit Plan, no event has occurred or condition exists that, to the knowledge of the Company, will or could give rise to a loss of any intended tax consequence or to any tax under Section 511 of the Code.

(i) There is no pending or threatened action, arbitration, grievance, audit, examination, investigation, hearing, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) relating to any Benefit Plan or the assets of any Benefit Plan, nor, to the knowledge of the Company, is there any basis for any such proceeding (other than routine claims for benefits arising in the ordinary course). Neither any Target Company nor any fiduciary of a Benefit Plan has engaged in a transaction with respect to any Benefit Plan that could subject any Target Company or the Buyer to a tax or penalty imposed by either Section 4975 of the Code or Section 502(l) of ERISA or a violation of Section 406 of ERISA. Neither the execution, delivery and performance of this Agreement nor the consummation of the transactions contemplated hereby will result in the potential assessment of a tax or penalty under Section 4975 of the Code or Section 502(l) of ERISA nor result in a violation of Section 406 of ERISA.

(j) Each Target Company has maintained workers’ compensation coverage as required by applicable state Law through the purchase of insurance and not by self-insurance or otherwise.

(k) Except as required by Law and except as provided in **Section 2.4**, neither the execution, delivery and performance of this Agreement nor the consummation of the transactions contemplated hereby will accelerate the time of vesting or the time of payment, or increase the amount, of compensation due to any director, employee, officer, former employee or former officer of any Target Company. **Sections 2.4(b) and (e) of the Disclosure Schedule** set forth the entire amount required to satisfy all deferred compensation, employment contract and severance obligations of the Target Companies to Raymond C. French. **Section 2.4(d) of the Disclosure Schedule** sets forth the entire amount required to satisfy any bonus entitlement of the Target Companies to Barry H. Feinberg and Raymond C. French.

(l) Except for the continuation coverage requirements of COBRA, none of the Target Companies has any liability or potential liability for benefits to any employees following termination of employment or retirement under any of the Benefit Plans that are employee welfare benefit plans.

(m) No written or oral representations have been made to any employee or former employee of any Target Company 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 or similar state statutes). No written or oral representations have been made to any employee or former employee of any Company concerning the employee benefits of Buyer.

(n) **Except as disclosed in Section 3.20(n) of the Disclosure Schedule**, none of the Target Companies has made any payment, is obligated to make any payment, or is a party to any contract, agreement, plan or arrangement that has resulted or will result in the payment of any “excess parachute payment” within the meaning of Section 280G of the Code. **Section 3.20(n) of the Disclosure Schedule** lists all persons who the Company reasonably believes are, with respect to the Target Companies or any Affiliate thereof, “disqualified individuals” (within the meaning of Section 280G of the Code and the regulations promulgated thereunder).

3.21 Intellectual Property Matters.

(a) The Target Companies have the means, rights, and information required to offer and perform the services that are presently being performed by the Target Companies. **Section 3.21 of the Disclosure Schedule** sets forth a list of all of the current registered trademarks, trademark registration applications, registered copyrights, patents, and patent applications of the Target Companies (the “Registered Intellectual Property”). To the knowledge of the Company, (i) the Target Companies own or possess adequate valid rights to use the Registered Intellectual Property and all Intellectual Property used by any Target Company, and (b) the validity of such rights is not being contested in any litigation to which any Target Company is a party nor has any such litigation been threatened, and, in the last five (5) years, the Target Companies have never received any charge, complaint, claim, demand or notice alleging any such interference, infringement, misappropriation or violation. To the extent permitted by the applicable telephone companies, the Target Companies have customary rights to the use of the telephone numbers used by the Target Companies.

(b) The Company is not a party to, either as a licensor or licensee, nor is it bound by or subject to, any license agreement for any material patent, process, trademark, service mark, trade name, copyright, trade secret or confidential information. To the knowledge of the Company, there are no rights of third parties with respect to any Intellectual Property which have or could materially adversely affect the operations of the Target Companies. The Target Companies have complied with all applicable Laws relating to the filing or registration of “fictitious names” or trade names.

(c) To the knowledge of the Company, the Target Companies have not interfered with, infringed, misappropriated or otherwise come into conflict with any Intellectual Property rights of any other Person. To the Company’s knowledge, no Person has materially interfered with, infringed, misappropriated, or otherwise come into conflict with any Intellectual Property of the Target Companies which are owned or used in the operation of its business.

3.22 Insurance. The Target Companies and the Professional Corporations are, and will be through the Closing Date, insured with insurers in respect of their properties, assets and businesses as set forth in **Section 3.22 of the Disclosure Schedule**. All insurance policies of the Target Companies and the Professional Corporations have been and are in full force and effect and will continue to be in full force and effect on identical terms immediately following the Closing (except with respect to any directors’ and officers’ insurance policy), all insurance premiums due thereon have been paid in full when due (except with respect to insurance premiums being contested by the Company in good faith), and no notice of cancellation or termination has been issued or received by any Target Company. The Target

Companies have previously provided true, complete and accurate copies of all insurance policies to the Buyer. To the knowledge of the Company, the insurance maintained by the Target Companies provide adequate coverage to insure their respective assets, properties and business against such risks and in such amounts as are adequate, prudent and customary in the industry in which the Target Companies operate. Without limiting the generality of the foregoing, the insurance maintained by the Target Companies insures their respective assets, properties and business against all losses related to the errors and omissions of optometrists employed by, or under contract to, the Target Companies and the Professional Corporations. Except as set forth on **Schedule 3.22**, to the Company's knowledge, no Target Company has any liability for retrospective premium adjustments for any period.

3.23 No Brokers. Except for Jefferies & Company, Inc. ("**Jefferies**"), whose fees and expenses are the sole responsibility of the Company, no broker or finder has acted directly or indirectly for the Company in connection with this Agreement or the transactions contemplated hereby, and no broker or finder is entitled to any brokerage or finder's fee or other commission in respect thereof based in any way on agreements, arrangements, or understandings made by or on behalf of the Sellers or the Target Companies.

3.24 Product Warranties. To the Company's knowledge, all optical products and other offerings sold by any of the Target Companies during the three year period prior to the date hereof (collectively, the "**Products**") are in material compliance with all Laws and Industry Laws, applicable standards, and express or implied warranties of such Target Company, except, in each case, as may be reflected or reserved for in the Financial Statements and the Closing Date Balance Sheet. Except to the extent reflected or reserved for in the Financial Statements and the Closing Date Balance Sheet, none of the Target Companies have been notified in writing of any material claims for and, to the knowledge of the Company, except as set forth on **Section 3.24 of the Disclosure Schedules** there are no threatened material claims for any product warranty obligations relating to the Products.

3.25 Environmental Matters.

(a) Except as set forth in **Section 3.25(a) of the Disclosure Schedule**, each Target Company is in material compliance with all Environmental Laws and Environmental Permits governing the businesses and operations of such Target Company.

(b) Except as set forth in **Section 3.25(b) of the Disclosure Schedule**, there are no (and, to the knowledge of the Company, there is no basis for any) non-compliance orders, warning letters, notices of violation, claims, suits, actions, judgments, penalties, fines, or administrative or judicial investigations of any nature pending or, to the knowledge of the Company, threatened against or involving any of the Facilities (to the Company's knowledge) or any Target Company or its respective businesses and operations, issued by any Governmental Authority or third party with respect to any Environmental Laws or Environmental, which have not been resolved to the satisfaction of the issuing Governmental Authority or third party.

(c) Except as set forth in **Section 3.25(c) of the Disclosure Schedule**, (i) no Target Company has at any time Discharged, nor has it at any time allowed or arranged for any third party to Discharge Hazardous Substances to, at or upon: (a) any location other than a site lawfully permitted to receive such Hazardous Substances; (b) to the Company's knowledge, any parcel of real property owned, used or leased at any time, including, without limitation, the Facilities, by any Target Company, except in compliance with applicable Environmental Laws; or (c) any site which, pursuant to the Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980, as amended (CERCLA) or any similar state law, has been placed on the National Priorities List or its state law equivalent, or as to which the Environmental Protection Agency or any relevant state agency or other Governmental Authority has

notified any Target Company that it has proposed or is proposing to place on the National Priorities List or such state law.

(d) Except as set forth on **Section 3.25(d) of the Disclosure Schedule** hereto, to the Company's knowledge, there are not now nor have there ever been any Underground Storage Tanks at any of the Facilities.

(e) **Section 3.25(e) of the Disclosure Schedule** sets forth a true, complete and accurate list of all Environmental Permits currently held by the Target Companies.

(f) None of the Facilities is subject to any Encumbrance in favor of any Governmental Authority or other party for (i) liability under any Environmental Laws, or (ii) damages arising from or costs incurred by such Governmental Authority in response to a Discharge or threatened Discharge.

(g) The Company has made available to Buyer true, correct and complete copies of all environmental audits, assessments, data or reports, including all groundwater, soil or air monitoring data, prepared by any Governmental Authority, the Company or any Target Company (or their respective agents or representatives) and in the Company or Target Companies' possession or control relating to or affecting the Facilities.

3.26 Health Care Compliance.

(a) The Target Companies and the Professional Corporations have conducted their business operations in compliance in all material respects with all Industry Laws and, without limitation, 42 U.S.C. §1395nn, as amended (Stark), 42 U.S.C. §1320a-7b, as amended (the Medicare/Medicaid Kickback Law); 31 U.S.C. §3729, (the False Claims Act); 42 U.S.C. §1320a-7b as amended by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. §300gg, et seq. (the Civil Monetary Penalties and Assessment Act), and all other applicable federal, state or local laws and regulations relating to kickbacks, illegal referrals, illegal billings or the like, privacy and security of medical information, and all other applicable regulations relating to health care, the health care industry, insurance and risk-based health plans, the provision of health care services, third-party reimbursements, public health and safety, and wrongful death and medical malpractice. All arrangements between the optometrists employed by or who are independent contractors to any of the Target Companies, and between the Professional Corporations and the Target Companies, comply in all material respects with all Laws, including all Industry Laws.

(b) All Professional Corporations with which the Target Companies conduct business, all optometrists employed by or under contract to the Professional Corporations, and all optometrists employed by or under contract to the Target Companies are listed in **Section 3.26 of the Disclosure Schedule**. **Section 3.26 of the Disclosure Schedule** sets forth the current annual salaries of all optometrists employed or under contract to the Target Companies or to the Professional Corporations.

3.27 Employment Matters.

(a) **Section 3.27 of the Disclosure Schedules** list all employee handbooks and all other written personnel policies that have been in effect at any Target Company during the preceding three-year period. True, accurate and complete copies of such handbooks and policies have been previously provided to the Buyer by the Target Companies.

(b) Except as set forth in **Section 3.18 of the Disclosure Schedules**, there is no contract (express or implied) in effect that would impose conditions for the dismissal or termination of any employee that are more burdensome or more expensive than those set out by applicable Law.

(c) During the preceding three-year period, all employees of the Target Companies who have been classified as exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and comparable applicable state Laws have satisfied all applicable standards for exempt status set forth in federal and state law. To the extent applicable Law requires payment on a salary basis to qualify for exempt status, all employees who have been subject to such a requirement pursuant to their classification as exempt employees have been paid on a salary basis, as that term has been defined by applicable Law, and no deductions not authorized by applicable Law have been made from their salaries.

(d) Except as set forth on **Section 3.27 of the Disclosure Schedule**, during the preceding three-year period, to the knowledge of the Company, there has not been and there presently is not any attempt to organize, certify, or establish any labor union or other employee association as the representative of any employees of any Target Company, and there has not been and is not any other labor dispute against or affecting any of the Target Companies.

3.28 Transactions With Affiliates. Except as set forth in **Section 3.28 of the Disclosure Schedule**, no director, officer or, to the knowledge of the Company, stockholder of any Target Company, or member of the family of any director or officer or, to the knowledge of the Company, stockholder of any Target Company, or any Person or other entity in which any director, officer or, to the knowledge of the Company, stockholder of any Target Company, or member of the family of any director or officer or, to the knowledge of the Company, stockholder of any Target Company, has a beneficial interest greater than 5% or is an officer, director, trustee, partner or holder of any equity interest greater than 5%, is a party to any transaction with any Target Company, including any contract or other arrangement providing for the employment of, furnishing of services by, rental of real or personal property from or otherwise requiring payments or involving other obligations to any such person or firm, except with respect to such agreements related to such person's employment with a Target Company, each of which is listed on **Section 3.18 of the Disclosure Schedules**.

3.29 Supplier Relations. **Section 3.29 of the Disclosure Schedules** set forth for the Target Companies all suppliers who accounted for 5% or more of the Company's consolidated gross purchases in the year ended January 1, 2005 or in the three-month period ended April 2, 2005. No such supplier of the Company has advised the Sellers or the Company in writing, orally or otherwise that it is, and, to the Company's knowledge, there is no reason to believe any such supplier is, (a) removing or considering removing the Target Companies from any approved purchaser list; or (b) terminating or considering terminating any of the Target Companies as a whole or in respect of any particular project or service. To the Company's knowledge, no such supplier has any material dispute or disagreement with the Target Companies.

3.30 Prohibitions on Conduct of Business. No officer, or to the Company's knowledge, any other employee, of the Target Companies is subject to any contractual prohibitions or restrictions whatsoever (other than restrictions in agreements between the Target Companies and their employees), whether imposed by a noncompete or nonsolicitation agreement or otherwise, that impedes the ability of such person in any way to conduct his or her duties on behalf of the Target Companies.

3.31 Guaranties. Except as set forth on **Section 3.31 of the Disclosure Schedule**, no Target Company is a guarantor or otherwise is liable for any indebtedness or other liability (of any nature whatsoever) of any other Person (excluding any other Target Company).

3.32 Systems. None of the computer software or hardware, telecommunications capabilities, and other software or any networks or systems that are used by any of the Target Companies has experienced bugs, failures, breakdowns, or other substandard performance in the past 12 months that has caused any material disruption or interruption in or to the business of any of the Target Companies.

4. Representations and Warranties of the Sellers.

Each Seller, severally and not jointly, hereby represents and warrants to the Buyer, as to himself, herself or itself only and not as to any other Seller, that the statements contained in this **Section 4** are correct and complete as of the date of this Agreement and will be correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this **Section 4**, except with respect to any updates to the **Disclosure Schedule** made in accordance with **Section 7.8** of this Agreement) with respect to himself, herself, or itself:

4.1 Organization of Certain Sellers. If the Seller is a corporation, such Seller is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation.

4.2 Corporate Power; Enforceable Obligation. Such Seller has the requisite power and authority (including, if the Seller is a corporation, full corporate power and authority) to execute and deliver this Agreement and to consummate the transactions contemplated hereby and to perform his or its obligations hereunder. This Agreement has been duly authorized, executed, and delivered by such Seller and is the legal, valid, and binding obligation of such Seller enforceable against such Seller in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other laws affecting the enforcement of creditors' rights in general, and except that the enforceability of the Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Except for any filings that may be required to comply with the HSR Act or as set forth in **Section 4.2 of the Disclosure Schedule**, such Seller need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority in connection with the execution, delivery, Closing and performance of this Agreement by such Seller and the consummation of the transactions contemplated hereby.

4.3 No Violations. Neither the execution, delivery, and performance of this Agreement by such Seller nor the consummation of the transactions contemplated hereby will contravene or violate (a) any Law to which such Seller is subject, (b) any judgment, order, injunction, or decree of any court, arbitrator, or Governmental Authority or agency that is applicable to such Seller, (c) the charter or organizational documents of such Seller, if any, or (d) violate, be in conflict with, result in the breach of, or require the consent of any other party to, any contract, agreement or commitment or any order to which any Seller is a party or by which any of them or any of their respective assets and properties, including, without limitation, the Shares, is subject or bound.

4.4 Title to Shares. Such Seller has, and on the Closing Date, such Seller will have, good and valid title to and beneficial ownership of all of the Shares owned by such Seller as set forth in **Section 3.5 of the Disclosure Schedule**, in each case free and clear of all Encumbrances.

4.5 No Brokers. Except for Jefferies, whose fees and expenses are the sole responsibility of the Company, no broker or finder has acted directly or indirectly for such Seller in connection with this Agreement or the transactions contemplated hereby, and no broker or finder is entitled to any brokerage or finder's fee or other commission in respect thereof based in any way on agreements, arrangements, or understandings made by or on behalf of such Seller.

4.6 No Foreign Persons. Such Seller is not a foreign person within the meaning of section 1445(b)(2) of the Code.

5. Representations and Warranties of the Buyer.

The Buyer hereby represents and warrants to the Sellers that the statements contained in this Section 5 are correct and complete as of the date of this Agreement and will be correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this **Section 5**, except with respect to any updates to the **Disclosure Schedule** made in accordance with **Section 7.8** of this Agreement):

5.1 Corporate Power; Enforceable Obligation. The Buyer has the requisite corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and to perform its obligations hereunder. This Agreement has been duly authorized, executed, and delivered by the Buyer and is the legal, valid, and binding obligation of the Buyer enforceable against the Buyer in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other laws affecting the enforcement of creditors' rights in general, and except that the enforceability of the Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

5.2 No Violations. Neither the execution, delivery, and performance of this Agreement by the Buyer nor the consummation of the transactions contemplated hereby will contravene or violate (a) any Law to which the Buyer is subject, (b) any judgment, order, injunction, or decree of any court, arbitrator, or governmental authority or agency that is applicable to the Buyer, or (c) the charter or organizational documents of the Buyer, except in the case of clauses (a) and (b) above as could not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Buyer to consummate the transactions contemplated hereby.

5.3 Consents and Approvals. Except for any filings that may be required to comply with the HSR Act or filings required by Industry Laws or by federal or state securities Laws or the listing standards of the American Stock Exchange, no authorization, approval, or consent of, and no registration or filing with, any Governmental Authority or agency is required to be made or obtained by the Buyer in connection with the execution, delivery, and performance of this Agreement by the Buyer.

5.4 Litigation. There is no pending or, to the knowledge of the Buyer, threatened, litigation, arbitration, investigation, or other proceeding involving the Buyer of or before any court, arbitrator, or governmental, regulatory, or administrative official, body, or authority that is reasonably likely to prevent or materially delay the consummation by the Buyer of the transactions contemplated by this Agreement.

5.5 Sufficient Funds. The Buyer has delivered to the Company true and complete copies of equity and debt financing commitments listed in **Section 5.5 of the Disclosure Schedules** (together with any amendments, renewals or replacements thereof, the "Financing Commitments"), which describe transactions which, if closed in accordance with the terms and conditions of the agreements related to such transactions, will provide sufficient funds to enable the Buyer to consummate the transactions contemplated hereby. The Financing Commitments are in full force and effect, subject to the conditions contained therein. The Buyer has paid, or will pay in accordance with the terms of the definitive agreements related to the Financing Commitments, all fees due and payable under the Financing Commitments. To its knowledge, the Buyer is not aware as of the date hereof of any reason that would be reasonably likely to cause the issuers of such Financing Commitments not to fund pursuant to the terms of such Financing Commitments on the Closing Date. To the Buyer's knowledge, the due diligence investigation desired to be conducted by the issuers of such Financing Commitments prior to funding with

respect to such Financing Commitments has been satisfactorily completed by such issuers as of the date of this Agreement. To the Buyer's knowledge, Buyer has made available or offered to make available to the issuers of such Financing Commitments all due diligence information requested by such issuers with respect to the Company provided by the Sellers or the Company to the Buyer or its representatives.

5.6 No Brokers. Except for TM Capital Corp., whose fees and expenses are the sole responsibility of the Buyer, no broker or finder has acted directly or indirectly for the Buyer in connection with this Agreement or the transactions contemplated hereby, and no broker or finder is entitled to any brokerage or finder's fee or other commission in respect thereof based in any way on agreements, arrangements, or understandings made by or on behalf of the Buyer or any of its affiliates.

5.7 Investment Purpose. The Buyer is acquiring the Shares solely for the purpose of investment and not with a view to, or for offer or sale in connection with, any distribution thereof.

6. Covenants Pending Closing.

6.1 Conduct of Target Company Business Pending Closing.

(a) The Company covenants and agrees that, except as set forth on **Schedule 6.1**, as contemplated by this Agreement, or as otherwise agreed to in writing by the Buyer, between the date hereof and the Closing Date, the Company shall cause each Target Company:

(i) Not to directly or indirectly do any of the following: (A) sell, pledge, dispose of, or encumber (other than Permitted Encumbrances) any assets of any Target Company other than in the ordinary course of business; (B) amend or propose to amend its certificate of incorporation or bylaws or comparable organizational documents; (C) split, combine, or reclassify any outstanding shares of its capital stock or other equity interest, or declare, set aside, or pay any dividend payable in cash, stock, property, or otherwise with respect to such shares or other equity interest; (D) redeem, purchase, acquire, or offer to acquire any shares of its capital stock or other equity interest; or (E) enter into any agreement with respect to any of the matters set forth in this **Section 6.1(a)(i)**;

(ii) Not to, directly or indirectly: (A) issue, sell, pledge, or dispose of, or agree to issue, sell, pledge, or dispose of, any additional shares or other equity interests of, or securities convertible or exchangeable for, or any options, warrants, or rights of any kind to acquire any shares or other equity interests of, its capital stock of any class whether pursuant to any rights agreement, stock plan, or otherwise; (B) acquire (by merger, consolidation, or acquisition of stock or assets) any corporation, partnership, or other business organization or division thereof; (C) incur any indebtedness for borrowed money, other than pursuant to the Ableco Financing, or issue any debt securities; (D) enter into any agreement obligating any of the Target Companies to make payments after the Closing Date in excess of \$100,000, except as expressly provided herein or with respect to employment or consulting agreements or lease agreements, which are addressed below; (E) terminate, modify, assign, waive, release or relinquish any Material Contract rights or amend any material rights or claims, in each case obligating any of the Target Companies to make payments after the Closing Date in excess of \$100,000, except as expressly provided herein or with respect to employment or consulting agreements or Leases, which are addressed below; or (F) dissolve or otherwise alter its corporate existence;

(iii) Not to enter into, amend, modify or renew any contract regarding employment, consulting, severance or similar arrangements with any of the Target Companies' directors or officers, and not to grant any salary, wage or other increase or increase any employee benefit to such individuals (including incentive or bonus payments or make any profit sharing payment);

(iv) Not to enter into, amend, modify or renew any contract regarding employment, consulting, severance or similar arrangements with any of the Target Companies' other employees or independent contractors, and not to grant any salary, wage or other increase or increase any employee benefit (including incentive or bonus payments or make any profit sharing payment), except, in each of the foregoing cases, in the ordinary course of business consistent with past practice;

(v) Not to enter into, establish, adopt, amend, modify or supplement any of the Benefit Plans or any other pension, retirement, stock option, stock purchase, savings, profit sharing, deferred compensation, consulting, bonus, group insurance or other employee benefit, incentive or welfare contract, plan or arrangement, or any trust agreement (or similar arrangement) related thereto, in respect of any of the Target Companies' directors, officers, employees or independent contractors, including taking any action that accelerates the vesting or exercisability of compensation or benefits payable thereunder and not to make any payment in respect of any Benefit Plans, except, in each such case, as may be required by applicable Law;

(vi) Not to hire (a) any new employees at the principal administrative offices of the Company (including its optical laboratory and distribution center) or (b) employees for any other functions or location of the Target Companies except, in each case, for employees having an annualized salary of less than \$100,000 who are terminable at will, and for optometrists to be under contract to the Target Companies or the Professional Corporations in the ordinary course of business;

(vii) Not to make any capital commitments in excess of \$100,000 in the aggregate except for (x) commitments for maintenance or replacement of capital assets in the ordinary course of its business, and (y) commitments with respect to the opening of new store locations or the relocation of existing store locations in the ordinary course of its business;

(viii) Not to otherwise conduct its business except in the ordinary course consistent with past practice except with respect to those actions to be taken in connection with the transactions contemplated hereby;

(ix) To maintain itself at all times as a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is incorporated and not to adopt any changes to its certificate of incorporation or bylaws;

(x) Not to obligate itself to pay any compensation, commission or bonus to any director, officer or employee (or otherwise amend or modify any employment contract, compensation arrangement or employee benefits plan), except for the regular compensation and commissions payable to such director, officer, employee or independent contractor at the rate in effect on the date of this Agreement in the ordinary course of business consistent with past practice;

(xi) To continue to carry insurance insuring its properties and operations for its benefit consistent with past practice;

(xii) To use reasonable commercial efforts to preserve its business organization intact, to keep available to the Buyer the services of its employees and independent contractors and to preserve for the Buyer its relationships with suppliers, licensees, distributors and customers and others having business relationships with it;

(xiii) Not to directly or indirectly incur any indebtedness other than accounts payable and accrued liabilities incurred in the ordinary course of its business consistent with past practice or as otherwise permitted herein;

(xiv) Not to, directly or indirectly, enter into or permit to exist any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any Affiliate of any of the Target Companies or the Sellers other than in the ordinary course of business consistent with past practice;

(xv) Not to enter into, modify, rescind, terminate, waive, release or otherwise amend in any material respect any of the terms or provisions of any Lease or Material Contract listed in **Sections 3.11 or 3.18 of the Disclosure Schedule** or which, if such Lease or Material Contract had existed as of the date of this Agreement, would have been required to be listed on **Sections 3.11 or 3.18 of the Disclosure Schedule**, other than in the ordinary course of business consistent with past practice;

(xvi) Make or change any material election, change an annual accounting period, adopt or change any accounting method, enter into any closing agreement with respect to material Taxes, settle any material Tax claim or assessment relating to any Target Company or consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to any Target Company;

(xvii) To maintain its facilities, machinery and equipment in the ordinary course of business consistent with past practice;

(xviii) To report periodically to the Buyer concerning the status of the business, operations, and finances of such Target Company; and

(xix) except as provided by this Agreement, not take or agree or commit to take any action that is reasonably likely to result in any of the Company's representations or warranties hereunder being untrue in any material respect (or in any respect if such representation is qualified by materiality, Material Adverse Effect or words to similar effect) or in any of the conditions to the Closing not being satisfied.

6.2 Consents and Approvals.

(a) If required by applicable Law, each Party agrees to file the appropriate Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated hereby within ten Business Days after the date hereof and to supply promptly any additional information and documentary material that may be requested pursuant to the HSR Act. Each Party agrees to use its commercially reasonable efforts to obtain early termination of the waiting period under the HSR Act; provided however, the Buyer shall not be required by this Agreement to dispose of or make any change in any portion of its business, agree or consent to refrain from any line of business into which the Buyer may reasonably enter, or make any payments in order to obtain early termination of the waiting period under the HSR Act or to obtain any applicable merger control clearances or otherwise eliminate any impediment under any antitrust Law. In addition, each Party agrees to promptly make any other filing that may be required under any antitrust Law or by any antitrust authority and effect all other filings with and notifications to the government agencies in any other jurisdiction where such filings and notifications are required. The Buyer shall pay the filing fees associated with the HSR filings and any other similar filings required in any other jurisdictions. The Sellers and the Buyer mutually commit to instruct their respective counsel to cooperate with each other and use reasonable best efforts to facilitate and expedite the identification and resolution of any issues under any antitrust Law and, consequently, expiration or termination of the applicable HSR Act waiting period at the earliest practicable date. The Sellers and the Buyer will supply each other with copies of all correspondence, filings or communications with antitrust authorities, with respect to the transactions contemplated by this Agreement and any related or

contemplated transactions, including, without limitation, documents filed pursuant to Item 4(c) of the Notification and Report Form or communications regarding the same.

(b) Prior to Closing, the Company shall obtain and provide to Buyer either: (i) a letter from the New Jersey Department of Environmental Protection (“NJDEP”) stating that the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et. seq. and the regulations promulgated thereunder (collectively “ISRA”) are not applicable to the transactions contemplated by this Agreement (a “Letter of Non-Applicability”); or (ii) an approved Negative Declaration (as defined by ISRA), De Minimis Quantity Exemption (as defined by ISRA), Expedited Review (as defined by ISRA), Regulated Underground Storage Tank Waiver (as defined by ISRA), or No Further Action Letter (as defined by ISRA) (the Negative Declaration, De Minimis Quantity Exemption, Expedited Review, Regulated Underground Storage Tank Waiver or No Further Action Letter, as the case may be, are hereinafter referred to collectively as the “ISRA Clearance”) for each property subject to ISRA and the transactions contemplated by this Agreement. If the Company is unable to obtain a Letter of Non-Applicability or ISRA Clearance by the Closing for each property subject to ISRA and the transactions contemplated by this Agreement, then the Company shall apply for and, prior to the Closing, enter into a Remediation Agreement (as defined by ISRA) with NJDEP for each property subject to ISRA and the transaction contemplated by this Agreement for which a Letter of Non-Applicability or the ISRA Clearance cannot be obtained. In any such Remediation Agreement, the Company shall pay for and be identified as the sole party responsible for: (x) compliance with the Remediation Agreement after Closing; and (y) obtaining the ISRA Clearance after the Closing. In addition, the Company shall provide all necessary financial assurance required by NJDEP under any such Remediation Agreement. After the Closing, Buyer grants the Sellers reasonable access to each property subject to ISRA and the transactions contemplated by this Agreement for which a Letter of Non-Applicability or the ISRA Clearance cannot be obtained. Such access shall be for the sole purpose of obtaining the ISRA Clearance.

(c) Section 280G Approval.

(i) The Target Companies shall, a reasonable time prior to Closing, submit to the stockholders of the Target Companies for approval (in a manner satisfactory to Buyer), by such number of stockholders as is required by the terms of Section 280G(b)(5)(B) of the Code and any related regulations, any payments and/or benefits set forth in **Section 3.20(n) of the Disclosure Schedules** and any other payments that Buyer determines may separately or in the aggregate, constitute “parachute payments” (within the meaning of Section 280G of the Code and the regulations promulgated thereunder), such that such payments and benefits shall not be deemed to be “parachute payments” under Section 280G of the Code, and prior to Closing the Company shall deliver to Buyer evidence satisfactory to Buyer that (A) a stockholder vote was solicited in conformance with Section 280G and the regulations promulgated thereunder and the requisite stockholder approval was obtained with respect to any payments and/or benefits that were subject to the stockholder vote (the “280G Approval”), or (B) that the 280G Approval was not obtained and as a consequence, that such “parachute payments” shall not be made or provided, pursuant to the waivers of those payments and/or benefits which were executed by the affected individuals on the date of this Agreement.

(ii) Any materials to be submitted to the stockholders in connection with obtaining the 280G Approval (the foregoing, collectively, the “280G Materials”), shall be subject to review and approval by Buyer and shall include information required to obtain the 280G Approval. The 280G Materials shall not contain any untrue statement of a material fact and shall not omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which made not misleading. Anything to the contrary contained herein notwithstanding, the Target Companies shall not include in the 280G Materials any information with respect to Buyer or its Affiliates, the form and content of which shall not have been consented to in writing by Buyer prior to such

inclusion. The boards of directors of the Target Companies shall not alter, modify, change or revoke its unanimous recommendation to the stockholders to approve and adopt the 280G Approval.

6.3 Cooperation with Respect to Financing. The Sellers agree to cooperate in any reasonable manner with the Buyer in connection with the obtaining of the financing that is the subject of the Financing Commitments (including, without limitation, obtaining the release, discharge and/or termination of all outstanding liens, security agreements and pledge agreements, as applicable, in connection with the Ableco Financing); provided, however, that neither the Company nor the Sellers will have any liability or responsibility, whether pursuant to this Agreement or otherwise, for any information provided, directly or indirectly, to the source of any potential financing, other than information provided to such source by the Sellers or the Target Companies concerning the Target Companies. The Buyer will use commercially reasonable efforts to obtain the financing set forth in the Financing Commitments.

6.4 Resignation of Directors. Prior to or at the Closing Date, the Company will cause each of the directors of each of the Target Company to resign as a director of such Target Company effective at the Closing Date.

6.5 Use of Name. None of the Sellers will use the names “Consolidated Vision Group” or “America’s Best Contacts & Eyeglasses” or any derivative thereof in any way whatsoever at any time after the Closing Date; provided, however, that nothing in this **Section 6.5** shall be deemed in any way to prevent the Sellers from including the name “Consolidated Vision Group” or “America’s Best Contacts & Eyeglasses” in any materials produced by such Sellers or their Affiliates in which such names are used in connection with a description of such Seller’s previous business experience.

6.6 Exclusivity. Prior to the Closing date, none of the Target Companies, the Sellers nor any of their Affiliates will (and the Sellers will not cause or permit any of the Target Companies to) solicit, initiate, or encourage the submission of any proposal or offer from any Person relating to the acquisition of any capital stock or other voting securities, or, except in the ordinary course of business, any portion of the assets, of any of the Target Companies (including any acquisition structured as a merger, consolidation, or share exchange) or participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing. Prior to the Closing Date, none of the Sellers will vote their Shares in favor of any such acquisition, regardless of how structured. The Company and the Sellers will notify the Buyer promptly if any Person makes any proposal, offer, inquiry, or contact with respect to any of the foregoing prior to the Closing Date.

6.7 Reasonable Commercial Efforts. Between the date of this Agreement and the Closing Date, the Company, the Sellers and the Buyer will use their reasonable commercial efforts to cause the conditions in **Section 8** to be satisfied.

7. Other Agreements.

7.1 Books and Records. For seven years following the Closing Date, unless acting with the prior written consent of the Sellers, the Buyer shall not (and shall not permit any Target Company to) destroy or otherwise dispose of any Target Company’s books, records, files, designs, specifications, customer lists, supplier lists, information, reports, correspondence, literature and other sales material, computer software, magnetic media, and other data and similar materials (all such materials, the “Books and Records”) without first offering to surrender the Books and Records which are intended to be destroyed or disposed of to the Sellers. After the Closing, the Buyer (a) shall allow the counsel, accountants, and other representatives of the Sellers and their Affiliates access to such Books and Records (with the related right of examination and duplication) upon reasonable request and during normal

business hours and (b) shall make available the employees of the Target Companies to the extent such availability is reasonably required by the Sellers in connection with the investigation, preparation, conduct, or settlement of or for any dispute, claim, suit, litigation, or other proceeding by or against the Sellers (or any of their Affiliates) or any other matter arising out of the business of the Target Companies prior to the Closing.

7.2 No Other Warranties. Except as expressly set forth in this Agreement, no Party is relying on any express or implied representations or warranties relating to any Party or to the consummation of the transactions contemplated hereby. THE REPRESENTATIONS AND WARRANTIES OF THE PARTIES CONTAINED IN THIS AGREEMENT ARE THE SOLE REPRESENTATIONS AND WARRANTIES OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. THE PARTIES ARE NOT MAKING ANY REPRESENTATION OR OTHER WARRANTY (EITHER EXPRESS OR IMPLIED, BY FACT OR LAW) OTHER THAN THOSE SET OUT IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, IN THE CASE OF THE COMPANY AND THE SELLERS, ANY REPRESENTATIONS OR WARRANTIES OF HABITABILITY, MERCHANTABILITY, PROFITABILITY, FUTURE PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, WORKMANSHIP, OR NON-INFRINGEMENT.

7.3 Investigation and Evaluation. The Buyer acknowledges that (a) the Buyer and its directors, officers, attorneys, accountants, and advisors have been given the opportunity to examine to the full extent deemed necessary and desirable by the Buyer all books, records, and other information with respect to each Target Company and its business, assets, and liabilities, and (b) the Buyer has taken full responsibility for determining the scope of its investigations of each Target Company and its business, assets, and liabilities, and for the manner in which such investigations have been conducted, and has examined each Target Company and its business, assets, and liabilities to the Buyer's full satisfaction. No investigation made heretofore by the Buyer or its agents shall in any way limit or affect the representations, warranties, covenants and indemnities of the Company and the Sellers hereunder.

7.4 Disclaimer. Except as expressly set forth herein, it is understood that any data, any financial information, and projections or any memoranda or offering materials or presentations (including, without limitation, the Confidential Information Memorandum dated May 2004 (as amended) and the related materials distributed by Jefferies and the management presentation prepared by the Sellers) are not and shall not be deemed to be or to include representations or warranties of the Company or the Sellers and no representation or warranty is made with respect thereto and, if made, is hereby expressly disclaimed. Except as expressly set forth herein, no Person has been authorized by the Company or the Sellers to make any representation or warranty relating to any Target Company or the Sellers or their respective businesses or otherwise in connection with the transactions contemplated hereby and, if made, such representation or warranty is expressly disclaimed and may not be relied upon as having been authorized by the Company or the Sellers.

7.5 Publicity. Neither the Buyer (or any of its Affiliates) nor the Company or the Sellers (or any of their Affiliates) shall issue any press release or otherwise make any public statement (except for releases and public statements required or advisable under applicable Laws or stock market listing standards) with respect to the transactions contemplated hereby without first consulting with and obtaining the written approval of the Buyer, in the case of the Company or the Sellers, or without first consulting with and obtaining the written approval of the Stockholders' Representative, in the case of the Buyer.

7.6 Employee and Related Matters.

(a) The employees of the Target Companies on the Closing Date shall be collectively referred to herein as “Transferred Employees.”

(b) For purposes of any service or employment requirement for vesting or eligibility to participate in any employee benefit plan, scheme, or arrangement maintained by the Buyer or its Affiliates, service and employment with the Target Companies shall be treated as service and employment with the Buyer and its Affiliates. No Transferred Employee shall be subject to any pre-existing condition exclusion under any health care plan maintained by the Buyer or its affiliates, except to the extent the Transferred Employee was or would have been subject to a pre-existing condition limitation under the applicable health care plan of the applicable Target Company.

(c) Notwithstanding **Section 7.6(b)**, the Parties acknowledge that employment of any of the Transferred Employees by any Target Company or the Buyer after the Closing Date will be “at will” and may be terminated by the Company or the Buyer at any time for any reason (subject to any legally binding agreement other than this Agreement, or any applicable laws or collective bargaining agreement, or any other arrangement or commitment).

(d) Buyer covenants and agrees to continue and maintain in all material respects the Company’s incentive compensation arrangements with respect to the 2005 calendar year for the employees set forth in **Section 7.6(d) of the Disclosure Schedules**, true and correct copies of which have been previously provided to Buyer. The Buyer shall use its reasonable efforts to calculate, to the extent practicable, the performance measures of the Target Companies against which bonus objectives are compared as if transactions contemplated by this Agreement had not occurred.

7.7 Consents, Assigned Contracts, Etc. Prior to the Closing Date, the Buyer, the Company and the Sellers shall use commercially reasonable efforts to obtain as promptly as possible the assignments, permits, estoppel certificates and consents listed on **Schedule 7.7**, which include all assignments, permits, estoppel certificates and consents needed with respect to the Material Contracts and Leases.

7.8 Notification of Certain Matters. From time to time prior to the Closing, the Company and the Buyer shall promptly supplement or amend the **Disclosure Schedules** as called for by the representations and warranties set forth in **Section 3** and **5**, as appropriate, in order to keep such information therein timely, complete and accurate and each supplement to or amendment of the **Disclosure Schedules** made after the date hereof pursuant to this **Section 7.8** shall be deemed to cure any breach of any representation or warranty made pursuant to this Agreement; provided however, that such amendment or supplement may only be made if: (a) it is necessitated because of facts, circumstances or events arising after the execution of this Agreement that were not anticipated by such Party at the time of execution of this Agreement; and (b) such representation or warranty was otherwise accurate as of the time when originally made. Between the date of this Agreement and the Closing Date, each Party will promptly notify the other Parties in writing if such Party becomes aware of any fact or condition that causes or constitutes a breach of any Party’s representations and warranties as of the date of this Agreement, or if such Party becomes aware of the occurrence after the date of this Agreement of any fact or condition that would (except as expressly contemplated by this Agreement) cause or constitute a breach of any such representation or warranty had such representation or warranty been made as of the time of occurrence or discovery of such fact or condition. During the same period, each Party will promptly notify the other Parties of the occurrence of any breach of any covenant of such Party or of the occurrence of any event that may make the satisfaction of the conditions in **Section 8** impossible or unlikely.

7.9 Director and Officer Insurance. The Buyer shall cause the persons serving as officers and directors of each of the Target Companies immediately prior to the Closing Date (including, without limitation, any directors or officers who have resigned pursuant to **Section 6.4** of this Agreement) to be covered for a period of six years from the Closing Date by the directors' and officers' liability insurance policy maintained by the Company as of the date of this Agreement (provided that the Buyer may substitute therefor policies of at least the same coverage and amounts containing terms and conditions which are not materially less advantageous than such policy) with respect to acts or omissions occurring prior to the Closing Date which were committed by such officers and directors in their capacity as such; provided that the Buyer shall have no obligation to maintain such policy if the aggregate cost of such policy shall exceed \$120,000 annually, and the Buyer may adjust the coverage or terms and conditions of the policy as necessary to maintain the costs of such policy at no greater than \$120,000 annually.

7.10 Releases.

(a) Effective as of the Closing Date, except for the rights under this Agreement, each Seller releases, remises, and forever discharges the Target Companies and their Affiliates (as such term applies to the Target Companies prior to the Closing Date), their respective representatives and insurers, and their respective successors and assigns, and each of them of and from any and all claims, demands, debts, accounts, covenants, agreements, obligations, costs, expenses, actions or causes of action, without limitation of law, equity or otherwise, arising solely in such Seller's capacity as a stockholder of the Company, and not in any other capacity (the "Released Claims"); provided, that the Released Claims shall under no circumstances include any claims, demands, debts, accounts, covenants, agreements, obligations, costs, expenses, actions or causes of action, without limitation of law, equity or otherwise, arising out of the transactions contemplated by this Agreement. Each Seller represents and warrants that no Released Claim released herein has been assigned, expressly, impliedly, or by operation of Law, and that all Released Claims of such Seller released herein are owned by such Seller, who has the sole authority to release them. Each Seller agrees that such holder shall forever refrain and forebear from commencing, instituting or prosecuting any lawsuit, action or proceeding, judicial, administrative, or otherwise, or otherwise attempting to collect or enforce any Released Claims which are released and discharged herein.

(b) Effective as of the Closing Date, except for the rights under this Agreement, Buyer and the Target Companies release, remise, and forever discharge each Seller and their respective Affiliates, representatives and insurers, and their respective successors and assigns, and each of them of and from any and all claims, demands, debts, accounts, covenants, agreements, obligations, costs, expenses, actions or causes of action, without limitation of law, equity or otherwise, arising solely against such Seller in its capacity as a stockholder of the Company, and not in any other capacity (the "Released Buyer Claims"); provided, that the Released Buyer Claims shall under no circumstances include any claims, demands, debts, accounts, covenants, agreements, obligations, costs, expenses, actions or causes of action of every nature, character or description, without limitation of law, equity or otherwise, arising out of the transactions contemplated by this Agreement. Buyer represents and warrants that no Released Buyer Claim released herein by Buyer has been assigned, expressly, impliedly, or by operation of Law, and that all Released Buyer Claims of Buyer released herein are owned by Buyer, who has the sole authority to release them. Buyer and the Target Companies agree that such holders shall forever refrain and forebear from commencing, instituting or prosecuting any lawsuit, action or proceeding, judicial, administrative, or otherwise, or otherwise attempting to collect or enforce any Released Buyer Claims which are released and discharged herein.

7.11 Access and Inspection; Cooperation. The Sellers and the Target Companies shall provide the Buyer and their authorized representatives full access during normal business hours from and after the date hereof until the Closing to the books, records, properties and personnel of the Target Companies for

the purpose of making such investigation as they may reasonably desire, and the Sellers and the Target Companies shall furnish such information concerning the Target Companies as they may reasonably request. Before the Closing, the Buyer may have a representative present at the headquarters of the Company to assist in post-Closing transition and related matters in connection with the businesses of the Target Companies. The Parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations hereunder, and all Parties shall use commercially reasonable efforts to consummate the transactions contemplated herein and to fulfill their obligations hereunder. After the Closing Date, from time to time and at any time, at the Buyer's request and expense, the Sellers shall execute and deliver such further documents and instruments of conveyance, assignment, and transfer and shall take such further reasonable actions as may be necessary or desirable, in the opinion of the Buyer, in connection with the consummation of the transactions described herein. Notwithstanding anything herein to the contrary, the Sellers and the Target Companies shall not be bound by any of the covenants or agreements set forth in this **Section 7.11** to the extent such compliance will, in the reasonable judgment of the Sellers, interfere with the day-to-day business or operations of any of the Target Companies.

7.12 Target Company Assets Owned by Others. To the extent any Sellers or any Affiliates of the Target Companies own any asset or property primarily used in the conduct of the business of the Target Companies, the Sellers and Target Companies shall cause the transfer, conveyance or assignment of such asset or property, without charge or cost, to the Target Company as promptly as possible.

7.13 Cancellation of Certain Agreements. The Target Companies and the Sellers hereby irrevocably: cancel and terminate the agreements listed in **Section 7.13 of the Disclosure Schedule** (each as may have been amended or modified subsequent to their respective initial effective dates) (the "**Cancelled Agreements**"), effective as of the times set forth in **Section 7.13** with respect to each such Cancelled Agreement, unless such Cancelled Agreements shall be cancelled and terminated on their own terms in connection with the Closing, and consent to such cancellation and termination; agree and acknowledge that the Cancelled Agreements are null and void and of no further force and effect; release, waive and relinquish any and all rights each may have under the Cancelled Agreements; release each other from all obligations under the Cancelled Agreements; and waive any notice period or other requirement to amend or terminate the Cancelled Agreements.

7.14 Evidence of Insurance. Prior to the Closing Date, the Buyer, the Company and the Sellers shall use commercially reasonable efforts to obtain as promptly as possible, to the extent that employees of the Professional Corporations are eligible to participate in the Company's welfare benefit plans set forth on **Section 7.14 of the Disclosure Schedule**, letters or other evidence from the applicable insurers of the Target Companies with respect to employees of the Professional Corporations confirming that such employees are covered by the corresponding Company welfare benefit plan.

7.15 Restrictive Covenants.

(a) In order to induce the Buyer to enter into this Agreement, Raymond French and Barry Feinberg (each of whom is a Seller and an executive officer of one or more of the Target Companies) agrees that each of them will not, without the prior written consent of the Buyer, for their own account or jointly with another, directly or indirectly, for or on behalf of any Person, as principal, agent or otherwise:

(i) for a period of three (3) years immediately following the Closing Date, engage or invest in, or own, control, manage or participate in the ownership, control or management of, or render services or advice to, or lend such Seller's name to, any business engaged, or which such Seller reasonably knows is undertaking to become engaged, within the geographic locations set forth in **Section**

7.15 of the Disclosure Schedules (which is the territory in which the Target Companies currently do business), in the business conducted by the Target Companies as described in **Section 7.15 of the Disclosure Schedules**, except on behalf of the Buyer or its Affiliates;

(ii) for a period of three (3) years immediately following the Closing Date, solicit, call upon or attempt to solicit the patronage of any Person to whom the Target Companies sold or provided any of the Target Companies' products or services during the two (2) year period prior to the Closing Date, for the purpose of obtaining the patronage of any such Person for the purchase of similar products and services, except on behalf of the Buyer and its Affiliates;

(iii) for a period of three (3) years immediately following the Closing Date, solicit or induce, or in any manner attempt to solicit or induce, any person employed or engaged by the Target Companies or the Professional Corporations in any capacity (including, without limitation, as an employee, distributor, independent contractor or agent), to leave such employment or engagement, whether or not such employment or engagement is pursuant to a contract or is at will; and

(iv) at any time after the Closing Date, disclose or reveal to any Person, any Confidential Information or Trade Secrets of the Target Companies or the Professional Corporations except on behalf of the Buyer or its Affiliates.

(b) Notwithstanding anything herein to the contrary, it shall not be a breach of the covenants contained in subparagraph (a) above for Raymond French and Barry Feinberg to collectively own not more than five percent (5%) of the equity interests of any Person whose equity interests are publicly traded.

(c) Although the Parties have, in good faith, used their best efforts to make the provisions of this **Section 7.15** reasonable in both geographic area and in duration, and it is not anticipated, nor is it intended, by any of the Parties hereto that a court of competent jurisdiction would find it necessary to reform the provisions hereof to make it reasonable in both geographic area and in duration, or otherwise, the Parties understand and agree that if a court of competent jurisdiction determines it necessary to reform the scope of this **Section 7.15** in order to make it reasonable in either geographic area or duration, or otherwise, damages, if any, for a breach hereof, as so reformed, would be deemed to accrue to the Buyer as of and from the date of such a breach only insofar as the damages for such breach relate to an action which occurred within the scope of the geographic area and duration as so reformed.

8. Conditions Precedent to the Closing.

8.1 Conditions Precedent to the Parties' Obligations. The obligations of the Buyer and the Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment or satisfaction (or waiver by the applicable Party), prior to or at the Closing, of each of the following conditions precedent:

(a) No injunction, writ, temporary restraining order, or other order, shall be in effect which restrains or prohibits the transactions contemplated by this Agreement, and no litigation or other proceeding shall be pending or threatened which individually or collectively with other proceedings would be reasonably be expected restrain or prohibit the transactions contemplated by this Agreement or have a Material Adverse Effect; and

(b) Any waiting period under the HSR Act with respect to the transactions contemplated by this Agreement shall have expired or been terminated.

8.2 Conditions Precedent to the Buyer's Obligations. The obligations of the Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment or satisfaction (or waiver by the Buyer), prior to or at the Closing, of each of the following additional conditions precedent:

(a) The representations and warranties of the Company and the Sellers set forth in this Agreement that are not qualified by reference to materiality, Material Adverse Effect or similar words shall be true and correct in all material respects, and the representations and warranties of the Company and the Sellers contained in this Agreement that are qualified by reference to materiality, Material Adverse Effect or similar words shall be true and correct in all respects, in each case as of the date hereof, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date), in each case giving effect to any amendments or supplements delivered pursuant to **Section 7.8**. The Company and the Sellers shall have performed or complied in all material respects with all obligations and covenants required by this Agreement to be performed or complied with by the Company and the Sellers by the time of the Closing. The Company shall have delivered to the Buyer the Company Officer's Certificate confirming the foregoing, which shall be dated as of the Closing Date and signed by an authorized officer of the Company.

(b) There shall have been no amendments or supplements to the Company's and Sellers' representations and warranties delivered pursuant to **Section 7.8** (i) the subject matter of which, individually or in the aggregate, could reasonably result in the expenditure by the Target Companies or Buyer, or incurrence of liabilities or obligations by the Target Companies or Buyer, of \$500,000 or more, or, (ii) if the subject matter of such amendments or supplements is not reasonably quantifiable, which, individually or in the aggregate, could materially adversely affect the Target Companies or the transactions contemplated hereby.

(c) There shall not have occurred any event or condition that has had a Material Adverse Effect since the date of this Agreement.

(d) All of the third party consents specified in **Schedule 7.7** above shall have been obtained.

(e) Simultaneously with the Closing:

(i) the Buyer shall have received the Escrow Agreement in form and substance as set forth in Exhibit F attached hereto, executed by the Sellers and the Escrow Agent;

(ii) the Buyer shall have received the other deliverables as described in **Section 2.3(a)**; and

(iii) the transactions contemplated by the Financing Commitments shall have closed on the terms and conditions described in such Financing Commitments and the Buyer shall have obtained financing on terms described in the Financing Commitments (or replacement financings which provide sufficient funds to enable the Buyer to consummate the transactions contemplated hereby).

8.3 Conditions Precedent to the Sellers' Obligations. The obligations of the Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment or satisfaction (or waiver by the Sellers), prior to or at the Closing, of the following additional condition precedent:

(a) The representations and warranties of the Buyer set forth in this Agreement shall be true and correct in all material respects, as of the date hereof, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date), in each case giving effect to any amendments or supplements delivered pursuant to **Section 7.8**. The Buyer shall have performed or complied in all material respects with all obligations and covenants required by this Agreement to be performed or complied with by the Buyer by the time of the Closing. The Buyer shall have delivered to the Sellers the Buyer Officer's Certificate confirming the foregoing, which shall be dated the Closing Date and signed by an authorized officer of the Buyer.

(b) Simultaneously with the Closing, the Sellers shall have received the Escrow Agreement in form and substance as set forth in Exhibit F attached hereto, executed by the Buyer and the Escrow Agent.

8.4 Frustration of Conditions. Neither the Buyer nor the Sellers may rely on the failure of any condition set forth in **Section 8.1, 8.2** or **8.3**, respectively, to be satisfied if such failure was caused by such Party's failure to act in good faith or to comply with its obligations under this Agreement.

9. Tax Matters.

9.1 Preparation and Filing of Tax Returns. The Buyer shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Target Companies for all periods ending on or prior to the Closing Date which are filed after the Closing Date and Tax Returns of the Target Companies for periods which begin on or before the Closing Date and end after the Closing Date (a "Straddle Period"). All such Tax Returns shall be prepared in a manner consistent with all prior Tax Returns of the Target Companies. Buyer shall provide the Stockholders' Representative with any such Tax Return at least 30 days prior to filing, shall permit the Stockholders' Representative to review and comment upon each such Tax Return prior to filing and shall reflect all such reasonable comments in such Tax Return. Notwithstanding anything to the contrary herein, the Buyer shall not, without the consent of the Stockholders' Representative (which consent shall not be unreasonably withheld), take a position in any Tax Return of any Target Company filed pursuant to this **Section 9.1** if such position is inconsistent with prior Tax Returns of the Target Companies and (x) would result in the imposition of Tax in excess of that which would be imposed had the Tax Return been prepared in a manner consistent with prior Tax Returns, and (y) such additional Tax is Tax for which Sellers have an indemnification obligation pursuant to this Agreement or otherwise economically bear.

9.2 Carrybacks. The Sellers shall not be required to file amended Tax Returns for any taxable period ending on or prior to the Closing Date to permit a carryback of any Tax items related to any Target Company.

9.3 Tax Cooperation. The Buyer, the Target Companies and the Sellers shall cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns pursuant to this Section and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other Party's reasonable request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and (upon the other Party's reasonable request) making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Target Companies and the Sellers agree to retain all books and records with respect to Tax matters pertinent to the Target Companies relating to the taxable period first ending after the Closing Date until the expiration of the statute of limitations (and, to the extent notified by the Buyer or the Sellers, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any

taxing authority, and to give the other Party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other Party so requests, the Target Companies or the Sellers, as the case may be, shall allow the other Party to take possession of such books and records.

9.4 Refunds. Any refund of paid Taxes which Sellers economically bore as owners of the Target Companies when such Taxes were paid, or are paid by the Sellers pursuant to an indemnification claim under this Agreement, shall be the property of the Sellers and the Buyer shall pay or cause to be paid any such refunds received to the Sellers within fifteen (15) days of receipt thereof.

9.5 Amended Returns. Neither the Buyer nor any Affiliate of the Buyer may amend a Tax Return of any Target Company with respect to a taxable period or portion thereof ending on or before the Closing Date without the consent of the Stockholders' Representative, which consent shall not be unreasonably withheld; provided, however, that the Buyer or any Affiliate of the Buyer may, without the consent of the Stockholders' Representative, amend any such Tax Return so long as the Buyer indemnifies the Sellers for any Taxes and costs the Sellers would be liable for or economically bear that are attributable to the filing of such amendment.

9.6 Section 338 Election. Neither the Buyer nor any of its Affiliates shall make or cause to be made an election pursuant to Section 338(g) of the Code or any corresponding election under any other Tax law with respect to the acquisition of the Shares pursuant to this Agreement.

9.7 Treatment of Payments Under Section 2.4. Except as otherwise required pursuant to a proceeding relating to Taxes, the Parties agree to treat the payments to be made pursuant to **Section 2.4** for all Tax purposes as occurring at the beginning of the day after Closing pursuant to 26 C.F.R. § 1.1502-76(b)(1)(ii)(B).

10. Remedies for Breaches of this Agreement.

10.1 Survival of Representations, Warranties and Covenants.

(a) All of the representations and warranties contained in **Sections 3, 4 and 5** above shall survive the Closing hereunder and continue in full force and effect for a period ending on the Warranty Expiration Date, whereupon they and all rights, liabilities and obligations in connection therewith shall terminate, except that the representations and warranties in **Sections 3.5(a) (Capitalization), 4.2 (Corporate Power; Enforceable Obligation) and 4.4 (Title to Shares)** shall survive indefinitely.

10.2 Indemnification.

(a) Subject to the limitations set forth in **Article 10** and in accordance with the procedures set forth in **Section 10.3**, from and after the Closing:

(i) each Seller, severally and not jointly, shall indemnify and hold harmless the Buyer, the Target Companies, their Affiliates, and the officers, directors, agents and employees of the Buyer, the Target Companies and their Affiliates (collectively, the "Buyer Indemnitees") against Seller's Pro Rata Share (as defined below) of any loss, liability, or expense (including, without limitation, reasonable attorneys' fees and expenses, but excluding punitive and other similar damages (each, a "Loss") caused by or resulting from (A) any breach by the Company of any representation or warranty of the Company made in this Agreement, or any certificate delivered by any officer of any Target Company pursuant to this Agreement, (B) the failure by the Company to perform any covenant or agreement in this Agreement to be performed by the Company, (C) the distribution or dividend and redemption of preferred

stock made by the Company in December 2004 and (D) the Company's obligation to comply with the Remediation Agreement, if any, described in **Section 6.2(b)**;

(ii) each Seller shall severally, and not jointly, indemnify and hold harmless the Buyer from any Loss caused by or resulting from (A) any breach of any representation or warranty of such Seller in this Agreement and (B) the failure by such Seller to perform any covenant or agreement in this Agreement to be performed by such Seller; and

(iii) the Buyer shall indemnify and hold harmless each Seller against any Loss caused by or resulting from (A) any breach of any representation or warranty of the Buyer in **Section 5**, (B) the failure by the Buyer to perform any covenant or agreement in this Agreement and (C) the operations of the business of the Target Companies after the Closing.

(b) No Party seeking indemnification hereunder (the "Indemnified Party") shall make any claim for indemnification under this **Section 10** against another Party (an "Indemnifying Party"; and treating all Sellers as a single Indemnifying Party for purposes of this **Section 10.2(b)**) unless and until the aggregate amount of all such claims against such Indemnifying Party exceeds \$500,000 (the "Deductible"), whereupon the Indemnified Party may claim indemnification for the amount of such claims, or portion thereof, in excess of such Deductible; provided however, such Deductible shall not apply to claims for breaches of the Company's representation and warranty in **Section 3.14** regarding the accuracy of **Sections 2.1(a)** and **2.4(c) of the Disclosure Schedules** and indemnity claims for the Company's obligation to comply with the Remediation Agreement, if any, described in **Section 6.2(b)**.

(c) The aggregate liability of the Sellers for indemnification claims pursuant to this **Section 10** shall not exceed the Escrow Funds. The aggregate liability of the Buyer for indemnification claims pursuant to this **Section 10** shall not exceed \$6,000,000. These limitations shall not apply, with respect to each Seller only, to claims arising out of such Seller's fraud or breach of **Sections 3.5(a), 4.2 and 4.4**; provided, however, that the aggregate liability of Sellers for indemnification claims with respect to **Section 3.5(a)** pursuant to this **Section 10** shall not exceed the Purchase Price. In determining the amount of claims against an Indemnifying Party hereunder, the amount of any insurance proceeds actually received by the Indemnified Party related to the matters which formed the basis for such claims shall be deducted from the amount to be paid by the Indemnifying Party (and to the extent the Indemnifying Party has already paid any amount of any claim for which insurance proceeds are subsequently received, the Indemnified Party shall refund to the Indemnifying Party the amount of such indemnification payments equal to such proceeds). In calculating the amount of any Loss, there shall be deducted from the claim for such Loss the amount of any reserve or accrual with respect to such Loss to the extent that such reserve or accrual is included in the final determination of net working capital balance as of the Closing Date under **Section 2.5**.

(d) For purposes of **Section 10.2(a)(i)**, each Seller's Pro Rata Share of any Loss covered by such Section shall be equal to the total amount of such Loss multiplied by the percentage set forth next to such Seller's name on Exhibit K attached hereto.

(e) Notwithstanding anything else in this Agreement, the amount of any indemnification claim by Buyer for unpaid Taxes of the Target Companies shall be reduced if, based on a pro forma calculation that assumes the payments to be made pursuant to **Section 2.4** were treated for all Tax purposes as being made or accruing during the tax period (or portion thereof) ending on the Closing Date, such unpaid Taxes as determined by such pro forma calculation would be lower than the amount of Buyer's indemnification claim therefor. In such event, Buyer's claim will be reduced by the amount of the difference between Buyer's claim and the amount such unpaid Taxes would be under such pro forma calculations (but in no event will Buyer's claim in such event be reduced below zero).

10.3 Indemnification Procedures.

(a) The Indemnified Party shall promptly notify the Indemnifying Party of any claim hereunder (including without limitation items that would be claims if they were not below the Deductible) and shall provide to the Indemnifying Party as soon as practicable thereafter all information and documentation reasonably necessary to support and verify the claim asserted (or which would be asserted if not below the Deductible), and the Indemnifying Party shall be given access to all books and records in the possession or control of the Indemnified Party related to such claim. The failure to give prompt notice shall not relieve the Indemnifying Party of the responsibility to indemnify except in the event that such failure to give prompt notice materially prejudices the defense of a claim, in which case failure to give prompt notice will relieve the Indemnifying Party of any responsibility hereunder.

(b) If any legal proceedings are instituted or any claim or demand is asserted by any Person in respect of which a Buyer Indemnitee or any Seller may seek indemnification from the other pursuant to the provisions of **Section 10.2**, the Indemnified Party shall promptly give notice to the Indemnifying Party of the commencement of such proceeding (but the failure to give such prompt notice shall not relieve the Indemnifying Party from its indemnification obligations, subject to the exception set forth in **Section 10.3(a)**). The Indemnifying Party will be entitled to participate in such proceeding and, to the extent that it wishes, at any time, at its option and expense, to assume the defense of such proceeding with counsel reasonably satisfactory to the Indemnified Party. If the Indemnifying Party assumes the defense of a proceeding, it will have the right to defend against and/or negotiate any such claim, and in such case the Indemnifying Party shall not be liable for the fees and expenses of counsel subsequently incurred by the Indemnified Party. No Indemnified Party may settle any such claim without the prior written consent of the Indemnifying Party. Any settlement of any such claim by any Indemnified Party without such consent of the Indemnifying Party shall relieve the Indemnifying Party of any obligation to indemnify as to such settled claim pursuant to this Section 10 or otherwise. The Buyer and the Seller shall cooperate fully with each other in connection with the defense, negotiation and settlement of any such legal proceeding, claim or demand.

10.4 No Liability or Contribution by the Target Companies. No Target Company shall have any liability to any Seller as a result of any misrepresentation or breach of representation or warranty by the Target Companies contained in this Agreement, the **Disclosure Schedules** or any other agreement, certificate, instrument, agreement or other writing delivered by or on behalf of any Seller or the Target Companies pursuant to this Agreement or in connection with the transactions contemplated herein, or the breach of any covenant or agreement of any Seller or the Target Companies contained in this Agreement, the **Disclosure Schedules** or any other agreement, certificate, instrument, agreement or other writing delivered by or on behalf of any Seller or the Target Companies pursuant to this Agreement or in connection with the transactions contemplated herein, and no Seller shall have any right of indemnification or contribution against the Target Companies on account of any such misrepresentations or breaches.

10.5 Exclusive Remedy. Other than in the case of fraud, this **Section 10** sets forth the only responsibility of each Party, from and after the Closing, to indemnify or otherwise protect any other Party against any loss, liability or expense arising out of or related to the transactions contemplated by this Agreement and the Company's obligation to comply with the Remediation Agreement, if any, described in **Section 6.2(b)**, and the Buyer's sole and exclusive remedy after the Closing (pre-Closing matters being the subject of **Sections 11.1** and **11.2**) for any breach of this Agreement by any Seller or the Company shall be the provisions of this **Section 10**; provided, however, that notwithstanding the foregoing, Buyer may seek equitable remedies from each Seller with respect to such Seller's individual failure to comply with the covenants set forth in **Sections 6.5, 7.5, 7.10, 7.13, 7.15** and **9.7** or **Articles 10** and **11**. The Escrow Funds shall serve as the Buyer's sole source of payment for Losses to which it is entitled under

this **Section 10**, other than Losses from the Company's breach of the representation and warranty in **Sections 3.5(a)** and from each Seller's fraud or breaches of each Seller of such Seller's representations and warranties in **Sections 4.2** and **4.4**.

11. Miscellaneous.

11.1 Termination. This Agreement may be terminated by written notice of termination only as follows:

(a) By mutual written consent of the Buyer, the Company and the Sellers;

(b) By either the Buyer or the Sellers, if the Closing has not occurred on or before the End Date, unless the reason that the Closing has not occurred shall be the failure of the Party seeking to terminate this Agreement to fulfill its obligations hereunder (treating the Company and the Sellers as a single Party for purposes of this **Section 11.1(b)**);

(c) By the Buyer if:

(i) a breach of any representation, warranty, covenant or agreement on the part of the Sellers or the Company set forth in this Agreement shall have occurred which if uncured would cause any condition set forth in **Sections 8.1** and **8.2** not to be satisfied, and such breach is incapable of being cured and such condition is incapable of being satisfied by the End Date or, if capable of being cured, shall not have been cured within ten business days following receipt by the Sellers of written notice of such breach from the Buyer; or

(ii) the transactions contemplated by the Financing Commitments (or replacement sources of financing which provide sufficient funds to enable the Buyer to consummate the transactions contemplated hereby) shall not have closed, or shall become reasonably incapable of closing by the End Date; or

(d) By the Sellers if a breach of any representation, warranty, covenant or agreement on the part of the Buyer set forth in this Agreement shall have occurred which if uncured would cause any condition set forth in **Sections 8.1** and **8.3** not to be satisfied, and such breach is incapable of being cured and such condition is incapable of being satisfied by the End Date or, if capable of being cured, shall not have been cured within ten business days following receipt by the Buyer of written notice of such breach from the Sellers, except as otherwise provided in this Agreement.

Each Party expressly (x) acknowledges and agrees that prior to the Closing its exclusive remedy in the event of a breach of any representation or warranty made to it in this Agreement (or any certificate delivered in connection herewith) is to terminate this Agreement in accordance with **Sections 11(b)**, **11.1(c)** or **11.1(d)**, as applicable, (y) except as provided in **Section 11.2**, waives and releases any other rights or remedies it may have in connection with any such breach, at law, in equity, under this Agreement or otherwise, and (z) acknowledges and agrees that in the event of any such termination no Party shall have any liability or obligation with respect to any Loss of any Party hereto.

11.2 Effect of Termination. In the event of termination hereunder without Closing, each Party hereto shall return promptly to the other Party hereto or destroy (and certify such destruction to the other Party in writing) all documents, work papers, and other material of the other Party furnished or made available to such Party or its representatives or agents, and all copies thereof, and agrees that no information received by it or its representatives or agents shall be revealed by it or its representatives or agents to any third party or used for the advantage of such Party or any other person. In the event of the

termination hereof as expressly permitted under **Section 11.1**, this Agreement shall forthwith become void and have no effect (except for **Section 11.4**) and there shall be no liability in respect of this Agreement on the part of any of the Buyer, the Company or the Sellers or their respective officers, directors, or shareholders except as provided in **Section 11.4** and this **Section 11.2**.

Notwithstanding the foregoing:

(a) except as set forth in **Section 11.2(b)** below, if such termination is due to the knowing, material non-fulfillment of any covenant or agreement herein by the Company or the Sellers, the Company shall be fully liable to the Buyer for all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) actually incurred in good faith by the Buyer in connection with this Agreement and the transactions contemplated hereby;

(b) if such termination is due to the knowing, material non-fulfillment of the covenant or agreement set forth in **Sections 2.3(a)(i)** or **2.3(a)(xiv)** herein by any Seller, such Seller or Sellers shall be fully liable to the Buyer for all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) actually incurred in good faith by the Buyer in connection with this Agreement and the transactions contemplated hereby;

(c) if such termination is due to the knowing, material non-fulfillment of any covenant or agreement herein by Buyer, Buyer shall be fully liable to the Company and the Sellers for all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) actually incurred in good faith by the Company and the Sellers in connection with this Agreement and the transactions contemplated hereby; and

(d) except in each case for any failure caused by the Target Companies or the Sellers to satisfy any of the conditions in (i) and (ii) below, and provided the Target Companies and Sellers are otherwise in material compliance with this Agreement:

(i) upon termination of this Agreement pursuant to **Section 11.1(b)**, if the purchase of Shares contemplated by this Agreement is not consummated on or prior to the End Date because of the failure of Buyer to consummate the transactions contemplated by the Financing Commitments (or replacement financings which provide sufficient funds to enable the Buyer to consummate the transactions contemplated hereby) on or prior to the End Date; or

(ii) upon termination of this Agreement by the Buyer pursuant to **Section 11.1(c)(ii)**,

then Buyer shall pay, as the exclusive remedy of the Sellers (except as set forth in **Section 11.2(c)**), a termination fee, in cash, to the Company of \$4,000,000 no later than five (5) business days after such termination; provided however, that in the event Buyer elects to extend the End Date beyond the one hundred and twentieth (120th) day following the date of this Agreement, then in the event such termination fee becomes payable, Buyer shall, in addition to such \$4,000,000 termination fee, pay simple interest upon such fee beginning from the ninetieth (90th) day following the date of this Agreement through such extended End Date, at a rate of 6.25% per annum.

11.3 Sales, Transfer, and Documentary Taxes. The Buyer shall be responsible for the payment of all documentary, recording, stamp, registration, sales, use, transfer, real property transfer, stock transfer, excise, or other similar taxes and fees (including penalties and interest) incurred in connection with this Agreement and the transactions contemplated hereby and the filing of any Tax Returns with

respect to such taxes and fees. The Parties agree to cooperate and take all commercially reasonable measures to minimize any such Taxes.

11.4 Expenses. The Parties shall pay their own expenses incidental to the preparation of this Agreement, the carrying out of the provisions of this Agreement, and the consummation of the transactions contemplated hereby; except that the Company (and not the Sellers) shall pay the fees and expenses owing to Jefferies in connection with the consummation of the transactions contemplated hereby. The fees and expenses of the Target Companies and the Sellers shall be deducted from the amounts payable to Sellers as set forth in **Section 2.1(c)** and paid in accordance with **Section 2.4(c)**. Notwithstanding the foregoing, the Company may pay or assume responsibility for paying certain other expenses of the Sellers incidental to the preparation hereof and, through the Closing, the carrying out by the Sellers of this Agreement and the consummation by the Sellers of the transactions contemplated hereby, but, if the Company does so, payment of or accrual for all such other expenses of the Sellers shall be fully reflected in the Closing Date Balance Sheet. The Buyer acknowledges and agrees that it alone will be fully responsible for the filing fee owing under the HSR Act, any foreign merger control laws, and any applicable foreign investment or foreign exchange laws. The anticipated amounts required to pay the fees and expenses of the Sellers and the Company in connection with the transactions contemplated by this Agreement are set forth in **Section 2.4(c) of the Disclosure Schedule**. Sellers shall obtain releases from the Persons set forth on **Section 2.4(c) of the Disclosure Schedule**, in form and substance satisfactory to the Buyer, to the effect that, upon payment of the amount set forth opposite such Person's name on **Section 2.4(c) of the Disclosure Schedule**, no further amounts shall be due and payable with respect to the transactions contemplated by this Agreement.

11.5 Contents of Agreement; Amendment. This Agreement and the Confidentiality Agreement set forth the entire understanding of the Parties with respect to the transactions contemplated hereby. This Agreement shall not be amended or modified except by written instrument duly executed by each of the Parties. Any and all other previous agreements and understandings between the Parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement and the Confidentiality Agreement.

11.6 No Assignment. This Agreement may not be assigned by either Party hereto without the prior written consent of the other Party, except that a Seller or the Buyer may assign this Agreement to any of their respective Affiliates without the consent of the other Party; provided, that any Affiliate to whom Seller assigns this Agreement shall agree to be bound by the terms and conditions of this Agreement as if an original signatory hereto.

11.7 Waiver. No waiver by either Party hereto, whether express or implied, of any right under any provision of this Agreement shall constitute a waiver of such Party's rights under any other provision of this Agreement, nor shall any such waiver constitute a waiver of such Party's right at any other time or unless it is made in writing and signed by the Party waiving the condition. No failure by either Party hereto to take any action with respect to any breach of this Agreement or default by the other Party shall constitute a waiver of such Party's right to enforce any provision of this Agreement against such other Party or to take action with respect to such breach or default or of any subsequent breach or default by such other Party.

11.8 Notices. Any notice, request, demand, waiver, consent, approval, or other communication which is required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, telefaxed with receipt acknowledged (and with a confirmation copy also sent by certified mail return receipt requested), delivered by a recognized commercial courier service with receipt acknowledged, or mailed by registered or certified mail return receipt requested, as follows:

If to the Buyer, to:

National Vision, Inc.
296 Grayson Highway
Lawrenceville GA 30045
Attention: General Counsel
Telefax No.:

with a required copy to:

Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: David A. Stockton
Telefax No.: 404-541-3402

If to the Company, to:

Consolidated Vision Group, Inc.
7255 Crescent Boulevard
Pennsauken, NJ 08110
Attention:
Telefax No.:

with a required copy to:

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Attention: Richard B. Aldridge
Telefax No.: 215-963-5001

If to the Sellers, to:

The Stockholders' Representative
Kelso & Company, L.P.
320 Park Avenue, 24th Floor
New York, NY 10022
Attention: James J. Connors, II
Telefax No.: 212-223-2379

with required copies to:

Kelso & Company
320 Park Avenue, 24th Floor
New York, NY 10022
Attention: James J. Connors, II
Telefax No.: 212-223-2379

and also to:

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103
Attention: Richard B. Aldridge
Telefax No.: 215-963-5001

or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval, or other communication will be deemed to have been given as of the date so delivered or telefaxed or five Business Days after the date mailed.

11.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its choice of laws provisions.

11.10 Consent to Jurisdiction. Each of the Parties (a) consents to submit itself to the nonexclusive personal jurisdiction of any federal court located in the State of Delaware or any Delaware state court in the event any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, and (b) shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court.

11.11 No Benefit to Others. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties and their permitted successors and assigns, and they shall not be construed as conferring any rights or remedies on any persons other than the Parties and their respective successors and permitted assigns. No Person (other than the Parties and their respective successors and permitted assigns) shall be a third party beneficiary of this Agreement.

11.12 Headings; Construction. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement. For purposes of **Section 3** and, to the extent applicable, any other portion of this Agreement, “knowledge of the Company,” “best knowledge of the Company,” any reference to the Company’s “awareness” and each phrase having equivalent meaning (e.g., “known to the Company”) shall be deemed to be the actual knowledge, of facts or other information of : Barry H. Feinberg, Raymond C. French, Jonathan Schwartz, Sharon Petitt, Kelly Carter, Donald Smith, O.D., Harry Witten, Robert Mullen and Tanya Travers, without such persons being obligated or deemed obligated to conduct or to have conducted any special investigation or inquiry into the affairs or business of the Target Companies. The Company shall not be deemed to have knowledge, actual, constructive, or otherwise, of any fact, circumstance, or occurrence known (or deemed to be known) to any person other than as set forth in the preceding sentence. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word “including” shall mean including without limitation.

11.13 Disclosure Schedule, Schedules, and Exhibits. The **Disclosure Schedule**, and all Schedules and Exhibits, referred to herein are intended to be and hereby are specifically made a part of this Agreement. Matters reflected on the **Disclosure Schedule** are not necessarily limited to matters required by this Agreement to be reflected therein and the inclusion of such matters shall not be deemed an admission that such matters were required to be reflected on the **Disclosure Schedule**. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

11.14 Severability. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable in any jurisdiction, the remainder of this Agreement, and

the application of such provision to such person or circumstance in any other jurisdiction or to other persons or circumstances in any jurisdiction, shall not be affected thereby, and to this end the provisions of this Agreement shall be severable.

11.15 Stockholders' Representative.

(a) Kelso & Company, L.P. shall be constituted and appointed as agent and attorney-in-fact ("Stockholders' Representative") for and on behalf of the Sellers to give and receive notices and communications made pursuant to this Agreement, to pay on behalf of the Sellers expenses incidental to the preparation hereof and the carrying out by the Sellers of this Agreement and the consummation by the Sellers of the transactions contemplated hereby, to participate in the Closing on behalf of each of the Sellers, to agree to, negotiate, enter into settlements and compromises of, and demand arbitration and comply with orders of courts and awards of arbitrators with respect to such claims, and to take all actions necessary or appropriate in the judgment of the Stockholders' Representative for the accomplishment of the foregoing. Such agency may be changed from time to time upon not less than two Business Days' prior written notice to the Buyer by the Sellers who as of the date of this Agreement owned a majority in interest of the Shares. No bond shall be required of the Stockholders' Representative, and the Stockholders' Representative shall receive no compensation for his services. Notices or communications to or from the Stockholders' Representative shall constitute notice to or from each of the Sellers for purposes of this Agreement.

(b) The Stockholders' Representative shall not be liable for any act done or omitted hereunder as Stockholders' Representative while acting in good faith and not in a manner constituting gross negligence, and any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of such good faith. The Sellers shall severally indemnify the Stockholders' Representative and hold him/her harmless against any Loss incurred without gross negligence or bad faith on the part of the Stockholders' Representative and arising out of or in connection with the acceptance or administration of his/her duties hereunder.

(c) The execution and delivery by any Seller of this Agreement shall be deemed to be approval by such Seller of the terms of the provisions of this **Section 11.15** and of the appointment of the Stockholders' Representative.

(d) A decision, act, consent or instruction of the Stockholders' Representative shall constitute a decision of all Sellers and shall be final, binding and conclusive upon each such Seller, and the Buyer may rely exclusively and conclusively upon any such decision, act, consent or instruction of the Stockholders' Representative as being the decision, act, consent or instruction of each and every Seller. The Buyer is hereby relieved from any obligation to any Person for any acts done by it in accordance with such decision, act, consent or instruction of the Stockholders' Representative. Except for a notice regarding the change of the Stockholders' Representative (as contemplated by **Section 11.15(a)**), the Buyer shall be entitled to disregard any notices or communications given or made by the Sellers unless given or made through the Stockholders' Representative. Each Seller releases, remises, and forever discharges the Buyer and its Affiliates, their respective representatives and insurers, and their respective successors and assigns, and each of them of and from any and all claims, demands, debts, accounts, covenants, agreements, obligations, costs, expenses, actions or causes of action of every nature, character or description, without limitation of law, equity or otherwise, to the extent based in whole or in part on Buyer's reliance on the decisions, acts, consents and instructions of the Stockholders' Representative as being the final, binding and conclusive act of all the Sellers.

(e) Any successor Stockholders' Representative appointed in accordance with the Stockholders' Representative Agreement shall be the Stockholders' Representative hereunder.

(f) Without limiting the generality of the foregoing, the execution and delivery by any Seller of this Agreement shall be deemed to be the authorization by such Seller of the Stockholders' Representative to execute and deliver the Escrow Agreement on such Seller's behalf, with such changes to the form of Escrow Agreement set forth in Exhibit F hereto as the Buyer, Stockholders' Representative and Escrow Agent may approve

11.16 Counterparts. This Agreement may be executed in any number of counterparts and any Party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by the Parties. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

11.17 Specific Performance. Each Party acknowledges and agrees that the other Parties would be damaged irreparably in the event any provision of this Agreement is not performed in accordance with its specific terms or otherwise is breached, so that a Party shall be entitled to injunctive relief to prevent breaches of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which such Party may be entitled, at law or in equity. In particular, the Parties acknowledge that the business of the Target Companies is unique and recognize and affirm that in the event the Sellers breach this Agreement, money damages would be inadequate and the Buyer would have no adequate remedy at law, so that the Buyer shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other Parties' obligations hereunder not only by action for damages but also by action for specific performance, injunctive, and other equitable relief.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

COMPANY:

CONSOLIDATED VISION GROUP, INC.

By: /s/ Raymond C. French

Name: Raymond C. French

Title: President

SELLERS:**SOCIETE GENERALE, NEW YORK BRANCH**

By: /s/ Harry T. Nullet

Name: Harry T. Nullet

Title: Managing Director

BANKAMERICA INVESTMENT CORPORATION

By: /s/ Eric Woodward

Name: Eric Woodward

Title: Principal

KELSO EQUITY PARTNERS V, L.P.

By: /s/ George E. Matelich

Name: George E. Matelich

Title: General Partner

SGC PARTNERS I LLC

By: /s/ Christopher A. White

Name: Christopher A. White

Title: Director

KELSO INVESTMENT ASSOCIATES V, L.P.

By: Kelso Partners V, L.P., its general partner

By: /s/ George E. Matelich

Name: George E. Matelich

Title: General Partner

Consolidated Vision Group, Inc
Strictly Confidential

/s/ John F. McGillicuddy

John F. McGillicuddy

/s/ Michel Rapoport

Michel Rapoport

/s/ David M. Roderick

David M. Roderick

/s/ John Rutledge

John Rutledge

/s/ George L. Shinn

George L. Shinn

/s/ U. Bertram Ellis, Jr.

U. Bertram Ellis, Jr.

/s/ Gregory L. Segall

Gregory L. Segall

/s/ Raymond C. French

Raymond C. French

/s/ Paul Halpern

Paul Halpern

/s/ Barry H. Feinberg

Barry H. Feinberg

MARQUARD FAMILY PARTNERSHIP, LTD.

By: /s/ William A. Marquard

Name: William A. Marquard

Title: General Partner

BUYER:

NATIONAL VISION, INC.

By: /s/ Peter T. Socha

Name: Peter T. Socha

Title: Chairman of the Board

SELLERS (CONT.):

ING FINANCIAL HOLDINGS CORPORATION

By: /s/ David Hudson

Name: David Hudson

Title: President and CEO

S-3

Consolidated Vision Group, Inc
Strictly Confidential

AMENDMENT TO RIGHTS AGREEMENT

This Amendment to Rights Agreement, dated as of July 25, 2005, to the Rights Agreement, dated as of January 17, 1997 (as amended, the “Rights Agreement”), between National Vision Inc., a Georgia corporation (the “Company”), and American Stock Transfer & Trust Company, a New York banking corporation, as Rights Agent (the “Rights Agent”).

WHEREAS, the Company and a predecessor of the Rights Agent entered into the Rights Agreement specifying the terms of the Rights (as defined therein); and

WHEREAS, the Company intends to enter into an Agreement and Plan of Merger among the Company and affiliates of Berkshire Partners, LLC (“Berkshire”), pursuant to which Berkshire would acquire the Company pursuant to a tender offer and subsequent merger; and

WHEREAS, the Company and the Rights Agent desire to amend the Rights Agreement in accordance with Section 27 of the Rights Agreement; and

WHEREAS, the Board of Directors of the Company has unanimously approved this Amendment at a meeting of directors duly called and held;

NOW, THEREFORE, in consideration of the premises and mutual agreements set forth in the Rights Agreement and this Amendment, the parties hereto agree as follows:

1. Section 1(i) of the Rights Agreement shall be amended to read as follows:

“Distribution Date” means the earlier of (i) the Close of Business on the tenth day (or such later day as may be designated by action of a majority of the Continuing Directors) after the Share Acquisition Date, and (ii) the Close of Business on the tenth Business Day (or such later day as may be designated by action of a majority of the Continuing Directors) after the date of the commencement by any Person (other than an Excluded Person and other than pursuant to an Approved Acquisition) of, or of the first public announcement of the intention by any Person (other than an Excluded Person and other than pursuant to an Approved Acquisition) to commence, a tender or exchange offer if, upon consummation thereof, such Person, together with all Affiliates and Associates of such Person, would be the Beneficial Owner of 15% or more of the shares of Common Stock then outstanding. None of the

transactions contemplated by that certain Agreement and Plan of Merger, by and among the Company and affiliates of Berkshire Partners, LLC, shall trigger a Distribution Date or other means of exercising the Rights created pursuant to this Agreement.

2. The Summary of Terms attached to the Rights Agreement as Exhibit C shall be deemed to be amended to reflect the terms of this Amendment.

3. The term “Agreement” as used in the Rights Agreement shall be deemed to refer to the Rights Agreement as amended hereby.

4. The foregoing Amendment shall be effective as of July 25, 2005, and, except as set forth herein, the Rights Agreement shall remain in full force and effect and shall be otherwise unaffected hereby.

5. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

NATIONAL VISION INC.

By: /s/ Mitchell Goodman
Name: Mitchell Goodman
Title: Senior Vice President and General Counsel

AMERICAN STOCK TRANSFER & TRUST COMPANY

By: /s/ Herbert J. Lemmer
Name: Herbert J. Lemmer
Title: Vice President



NEWS RELEASE

CONTACT :

Paul A. Criscillis, Jr.
Senior Vice President and CFO
770-822-4262
www.nationalvision.com

FOR IMMEDIATE RELEASE

- **Berkshire Partners LLC to Acquire National Vision, Inc. for \$7.25 per Share**
- **National Vision to Acquire Consolidated Vision Group for \$88 million, including Debt Repayment**

LAWRENCEVILLE, GA, July 26, 2005 — National Vision, Inc. (AMEX: NVI), an operator of retail vision centers, and Berkshire Partners LLC, a leading private equity investor, announced today that NVI and an affiliate of Berkshire Partners have signed a definitive merger agreement pursuant to which Berkshire Partners will acquire National Vision for \$7.25 per share. National Vision also announced an agreement to acquire all of the outstanding common stock of Consolidated Vision Group, Inc. for approximately \$88 million, including debt repayment. Consolidated Vision Group operates 111 optical stores under the brand name “America’s Best Contacts & Eyeglasses.”

Peter T. Socha, Chairman of the Board of Directors of National Vision, commented, “The Board has directed an aggressive program of exploring strategic and financial alternatives for the company since May 2004. With a premium of 42% to our last closing stock price on July 25, 2005, and a refinancing of all outstanding debt facilities, we believe that these transactions represent an excellent outcome for all our security holders.”

L. Reade Fahs, President and Chief Executive Officer of National Vision, said, “Our management team is excited about the opportunity of combining National Vision and America’s Best into the fourth largest retail optical chain in America. With the backing of Berkshire Partners, we’re confident of having the committed resources necessary to build a leading presence in the value segment of the optical category.”

Barry Feinberg, Chief Executive Officer of Consolidated Vision Group, said, “The past three and one-half years have been very exciting at America’s Best. We have led the industry in comparable store sales growth and have substantially increased our cash flow. We believe the consumer will be well served by combining our store base with National Vision.”

“Berkshire Partners has been an active investor in the retail industry for over 20 years,” stated Randy Peeler, Managing Director of Berkshire Partners. “We are eager to invest in NVI, which is a leader in the value segment of the optical retail market.”

Pursuant to the terms of the merger agreement, Vision Acquisition Corp., an affiliate of Berkshire Partners, will commence a cash tender offer to acquire all outstanding shares of National Vision common stock at a price of \$7.25 per share in cash. Following the offer, the merger agreement contemplates that Vision Acquisition Corp. will be merged with National Vision and that shares not tendered in the offer would be converted into a right to receive \$7.25 in cash. The merger agreement also contemplates that National Vision’s existing senior notes due 2009 will be redeemed at par.

Consummation of the tender offer is subject to the completion of National Vision’s acquisition of Consolidated Vision Group, the tender of at least 67% percent of National Vision’s fully diluted shares and other customary conditions. Vision Acquisition Corp. retains the right to waive the minimum tender requirement if fewer than 67% of the fully diluted shares (but at least a majority) of National Vision’s shares are tendered. The parties expect that the tender offer and acquisition of Consolidated Vision Group will be completed during the third calendar quarter of 2005.

The Board of Directors of National Vision and a Special Committee of independent members of National Vision’s Board of Directors approved the terms of the tender offer and merger and recommended that the shareholders of National Vision accept the offer. The Special Committee has received an opinion from its financial advisor, TM Capital Corp., to the effect that the consideration proposed to be paid to the shareholders in the transaction is fair from a financial point of view to such shareholders.

Pursuant to the merger agreement with Vision Acquisition Corp., National Vision may not participate in discussions regarding any competing offer to acquire its stock or assets, except under certain circumstances described in the merger agreement in order to comply with its fiduciary duties. If the Company’s Board of Directors exercises its right to terminate the merger agreement to enter into an alternative transaction, and in certain other circumstances set out in the merger agreement, the Company would be required to pay a \$1.6 million break-up fee. If the Company terminates the merger agreement, unless such termination is due to Vision Acquisition’s breach, the Company will be required to reimburse Vision Acquisition for its expenses, up to \$2 million. In no event will the combined amount of the breakup fee and expense reimbursement payments exceed \$2.6 million in the aggregate. National Vision intends to file a Schedule 14D-9 Recommendation Statement with the Securities and Exchange Commission relating to the transaction with a copy of the merger agreement as an exhibit.

In conjunction with entering into the merger agreement with Vision Acquisition Corp., National Vision also announced that it had entered into an agreement to purchase all of the outstanding stock of Consolidated Vision Group, a privately held retailer of optical products and services headquartered in Pennsauken, New Jersey. National Vision's acquisition of Consolidated Vision Group has been approved unanimously by the boards of directors of National Vision and Consolidated Vision Group.

In connection with the Consolidated Vision Group acquisition, National Vision will pay approximately \$88 million in cash, approximately \$48 million of which will be used to repay debt and other obligations of Consolidated Vision Group and the remainder of which will be paid to the Consolidated Vision Group shareholders. The CVG acquisition, and the repayment of National Vision's senior notes to occur in conjunction with the CVG acquisition, would be financed through a new credit facility arranged by Freeport Financial and a cash investment by Berkshire Partners. National Vision would be obligated to pay a break up fee to the Consolidated Vision Group shareholders of \$4 million if the Consolidated Vision Group acquisition fails to close by December 22, 2005 due to its failure to close the contemplated financing.

The consummation of National Vision's acquisition of Consolidated Vision Group is conditioned upon the simultaneous closing of the tender offer by Vision Acquisition Corp. for National Vision's shares.

The pre-approval requirements of the Hart-Scott-Rodino Antitrust Improvements Act do not apply either to the acquisition of National Vision by Berkshire or to the acquisition of Consolidated Vision Group by National Vision.

National Vision, Inc. is a retail optical company that operates vision centers primarily within host environments in the United States and Mexico. Its vision centers sell a wide range of optical products including eyeglasses, contact lenses and sunglasses. As of the end of the most recent fiscal quarter on July 2, 2005, the Company operated 412 vision centers, including 290 located inside domestic Wal-Mart stores. National Vision depends on its domestic Wal-Mart locations for substantially all of its revenues and cash flow. Investments in the debt and equity securities of National Vision, Inc. are subject to substantial risks as described in the Company's public filings with the Securities and Exchange Commission.

Berkshire Partners has invested in mid-sized private companies for the past twenty years through six investment funds with aggregate capital commitments of approximately \$3.5 billion. The firm's investment strategy is to seek companies that have strong growth prospects and to support talented management teams. Berkshire has developed specific industry experience in several areas including retail, consumer products, industrial manufacturing, transportation, communications and business services. Berkshire has been an investor in over 80 operating companies with more than \$12.0 billion of acquisition value and combined revenues in excess of \$15.0 billion.

Freeport Financial LLC is a leading provider of capital and leveraged finance solutions to middle market companies with private equity sponsor ownership. Freeport Financial LLC invests at all

levels of the capital structure but focuses primarily on providing cash flow and asset based lending products including senior secured, junior secured and unsecured loans to support leveraged buyouts, recapitalizations, and corporate refinancings. Founded in 2004 by a group of experienced corporate finance and capital markets professionals and located at offices in Chicago and New York, Freeport Financial has the industry expertise and product knowledge to serve the financing needs of private equity sponsors and their middle market companies.

The tender offer for the outstanding shares of National Vision has not yet commenced. This announcement is not a recommendation, an offer to purchase or a solicitation of an offer to sell shares of National Vision. Shareholders should read, when available:

- National Vision's solicitation/recommendation statement on Schedule 14D-9, and
- Vision Acquisition Corp.'s Tender Offer statement on Schedule TO, including the Offer to Purchase, the Letter of Transmittal and the Notice of Guaranteed Delivery.

Each of these documents will contain important information about the tender offer. When they become available, shareholders can obtain these documents for free from the U.S. Securities and Exchange Commission's website at <http://www.sec.gov>.

TM Capital Corp., the financial advisor to the Special Committee and to the Board of Directors of National Vision, is a New York and Atlanta based merchant bank which advises clients on a broad range of global merger, acquisition and financing transactions.

Kilpatrick Stockton LLP acted as legal advisor to the Board of Directors of National Vision and Weil, Gotshal & Manges LLP acted as legal advisor to Berkshire Partners and its affiliates.

This press release may contain forward-looking statements, including statements about the timing and completion of an all cash tender offer for National Vision's outstanding shares, the ability to complete the tender offer and subsequent merger on the terms contemplated, the value of the transaction, the anticipated impact of the acquisition on National Vision's operations and financial results and other projections within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements are subject to risks and uncertainties, including the risk that the transactions described in this press release are not consummated, as well as the risks and uncertainties disclosed in National Vision's filings with the Securities and Exchange Commission, including its annual report on Form 10-K for the fiscal year ended January 1, 2005, and its quarterly report on Form 10-Q for the period ended April 2, 2005, that could cause actual results to differ materially from those projected in these forward-looking statements. These statements speak only as of the date of this press release, and National Vision and Berkshire Partners undertake no obligation to update or revise any of the statements, risks or reasons why actual results might differ. All forward-looking statements are expressly qualified in their entirety by this cautionary statement.