

FORM PTO-1594 (Modified)
(Rev. 10/02)
OMB No. 0651-0027 (exp. 6/30/2005)
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RECORDATION FORM COVER SHEET

Docket No.:

TRADEMARKS ONLY

Tab settings

To the Director of the United States Patent and Trademark Office: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Persimmon Research Partners, Inc.

- Individual(s)
- General Partnership
- Corporation-State **Delaware**
- Other
- Association
- Limited Partnership

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: **October 22, 2002**

2. Name and address of receiving party(ies):

Name: **PFPC, Inc.**

Internal Address:

Street Address: **301 Bellevue Parkway**

City: **Wilmington** State: **DE** ZIP: **19809**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State **Massachusetts**
- Other

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2456332
2663838
2742778

Additional numbers Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Robert J. Pugh**

Internal Address: **The PNC Financial Services Group, Inc.**

Mail Stop P1 POPP 21 1

Street Address: **249 Fifth Avenue**

City: **Pittsburgh** State: **PA** ZIP: **15222**

6. Total number of applications and registrations involved:.....

3

7. Total fee (37 CFR 3.41):.....\$ **90.00**

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

502805

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Robert J. Pugh

Name of Person Signing



Signature

November 25, 2003

Date

Total number of pages including cover sheet, attachments, and

44

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TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

**11/24/2003
900003262**

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Persimmon Research Partners, Inc.		10/22/2002	CORPORATION: DELAWARE

RECEIVING PARTY DATA

Name:	PFPC, Inc.
Street Address:	301 Bellevue Parkway
City:	Wilmington
State/Country:	DELAWARE
Postal Code:	19809
Entity Type:	CORPORATION: MASSACHUSETTS

PROPERTY NUMBERS Total: 3

Property Type	Number	Word Mark
Registration Number:	2456332	ADVISORPORT.COM
Registration Number:	2663838	A
Registration Number:	2742778	THE WAY YOU WORK

CORRESPONDENCE DATA

Fax Number: (412)762-4334
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

Phone: 412-768-2968
Email: susan.lloyd@pnc.com

Correspondent Name: Robert J. Pugh
Address Line 1: 249 Fifth Avenue
Address Line 2: Mail Stop P1 POPP 21 1
Address Line 4: Pittsburgh, PENNSYLVANIA 15222

NAME OF SUBMITTER:	Susan M. Lloyd
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Total Attachments: 10
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OPTION AND MERGER AGREEMENT
BY AND AMONG
PERSIMMON RESEARCH PARTNERS, INC.,
PPPC INC.
AND
PERSIMMON STOCKHOLDERS COMMITTEE

October 22, 2002

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EXHIBITS:

Exhibit 3.5 - Certificate of Merger

OPTION AND MERGER AGREEMENT

THIS OPTION AND MERGER AGREEMENT (this "Agreement") is made and entered into on October 22, 2002 by and among PERSIMMON RESEARCH PARTNERS, INC., a Delaware corporation ("Company"), PFPC INC., a Massachusetts corporation ("PFPC") and PERSIMMON STOCKHOLDERS COMMITTEE, a committee comprised of Newhouse Special Situations Fund I, LLC, Rosemont Partners I, LP and Gregory S. Horn with an address c/o Newhouse Special Situations Fund I, LLC, Two East Avenue, Suite 201, Larchmont, NY 10538, solely in its capacity as the Stockholders' Representative (as defined in Appendix A), and solely for the purpose set forth in Sections 3.7(a)(iii), 3.8, 11.7, and 11.9, and Article 10.

BACKGROUND

- A. The Company desires to grant to PFPC an Option (as defined in Section 2.1 below), to enter into a business combination transaction pursuant to which the Merger Sub will merge with and into the Company (the "Merger") in connection with the exercise of the Option.
- B. The Board of Directors of the Company has determined that it is in the best interests of its stockholders that, upon the terms and subject to the conditions of this Agreement and in accordance with the General Corporation Law of the State of Delaware (the "GCL"), the Merger Sub and the Company enter into the Merger.
- C. The parties have determined that the proposed Merger and other transactions contemplated hereby are consistent with, and in furtherance of, their respective strategies and goals.
- D. The foregoing recitals are hereby incorporated by reference into this Agreement and made a part hereof.

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants herein contained and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I. DEFINITIONS

All capitalized terms used and not otherwise defined in the body of this Agreement have the respective meanings assigned to them in Appendix A hereto.

ARTICLE 2. OPTION

2.1 **Option Grant.** The Company hereby grants to PFPC the exclusive right and option (the "Option") to effect a transaction with the Company pursuant to which the Company will become a wholly-owned Subsidiary of PFPC in accordance with the terms and conditions hereinafter set forth, and the holders of the Company's issued and outstanding capital stock (the "Stockholders") comprising not less than ninety percent (90%) of the common stock of the Company, on an as-converted basis ("Requisite Voting Power") have evidenced their consent in connection therewith to the proposed terms and conditions of the Merger and to this Agreement.

2.2 **Option Period.** PFPC may, but shall not be obligated to, exercise the Option at any time during the period beginning on the date of this Agreement and expiring on the earliest of (i) the

later of the first anniversary of the date of this Agreement, or such date as to which the Option Period has been extended in accordance with Section 1(c)(i)(D) of the Services Agreement, (ii) the termination of this Agreement pursuant to Section 9.1 or (iii) the effective date on which the Company shall have terminated the Services Agreement pursuant to Section 18 thereof (the "Option Period"). If PFPC shall not have exercised the Option in the manner provided herein during the Option Period, then the Option shall thereupon terminate and be null and void, and neither party hereto shall have any further rights or obligations hereunder.

2.3 Exercise of Option. To exercise the Option, PFPC shall so notify the Company in writing (in the manner provided in Section 11.7 hereof) (the "Option Exercise Notice") no later than 11:59 p.m. Eastern time on the last day of the Option Period; it being understood, however, that the exercise of the Option, if any, shall be subject in all respects to (i) PFPC's internal approval process, including consideration and approvals by PFPC's board of directors and committees of its parent company, (ii) PFPC's receipt of any regulatory approvals, consents, licenses or similar grants of authority by any applicable Governmental Authority and the filing or making of notices deemed necessary or desirable by PFPC, and (iii) PFPC's receipt of evidence to its satisfaction that the Company has complied with all requests for action by PFPC pursuant to Article 7. Upon PFPC providing the Option Exercise Notice to the Company, the parties shall thereafter, in accordance with terms of this Agreement, consummate the Merger. The date upon which the Company is deemed to have received the Option Exercise Notice shall hereinafter be referred to as the "Option Exercise Date."

2.4 Revocation of Exercise. If on or prior to the Closing Date, but following the Option Exercise Date, PFPC determines that the Company was in breach of any covenant or agreement or that any representation or warranty contained in this Agreement was not true and correct or was intentionally misleading as of the Option Exercise Date and the Company continues to be in breach or such representation or warranty continues to be untrue or misleading on the Closing Date, PFPC shall be entitled to revoke its exercise of the Option and such revocation shall render any obligations of PFPC to consummate the merger null and void, and all other rights and remedies of PFPC hereunder shall remain in full force and effect.

2.5 Exclusivity. During the Option Period, PFPC shall have the sole and exclusive right to effect the Merger or other acquisition of the Business and the Company shall not offer or solicit offers to effect a sale of the Business, whether by merger, consolidation, stock purchase, asset purchase, joint venture or otherwise, to any other Person during the Option Period.

ARTICLE 3. MERGER

3.1 Surviving Corporation. Upon the exercise of the Option, and subject to the provisions of this Agreement and applicable law, at the Effective Time (as defined in Section 3.5 below), a Delaware corporation and wholly-owned subsidiary of PFPC (the "Merger Sub") shall be merged with and into the Company in accordance with the Certificate of Merger (as defined in Section 3.5 below), and the separate corporate existence of Merger Sub shall cease. The Company shall be the surviving corporation in the Merger and shall continue its corporate existence under the GCL (the Merger Sub and the Company are sometimes referred to below as the "Constituent Corporations" and the Company is sometimes referred to below as the "Surviving Corporation").

3.2 Certificate of Incorporation. At the Effective Time, the certificate of incorporation of the Surviving Corporation shall be amended and restated to have the same form as the certificate of incorporation of the Merger Sub; provided, however, that the name of the Surviving Corporation may be changed to "AdvisorPort, Inc." or a derivation thereof.

3.3 Bylaws. At the Effective Time, the Surviving Corporation shall adopt amended and restated Bylaws in the same form as the Bylaws of the Merger Sub.

3.4 Directors. The directors of the Merger Sub immediately before the Effective Time shall be the directors of the Surviving Corporation immediately after the Effective Time, each to hold the office of director of the Surviving Corporation in accordance with the applicable provisions of the GCL and the certificate of incorporation and Bylaws of the Surviving Corporation until his or her successor is duly qualified and elected.

3.5 Effective Time. Upon satisfaction or waiver of the conditions set forth in Article 8 hereof, and if this Agreement shall not have been terminated in accordance with Article 9 hereof, the parties hereto shall cause the certificate of merger attached hereto as Exhibit 3.5 (the "Certificate of Merger") to be signed and acknowledged and thereafter delivered to the Secretary of State of the State of Delaware for filing, as provided in the GCL, on the Closing Date, and the Merger shall become effective as of the time of filing of a properly adopted and executed Certificate of Merger or at such later date and time as is specified in the Certificate of Merger. The date and time when the Merger becomes effective is herein referred to as the "Effective Time."

3.6 Other Effects of the Merger. The Merger shall have all further effects as specified in the applicable provisions of the GCL. Without limiting the generality of the foregoing, at and after the Effective Time, the Surviving Corporation will possess all the rights, privileges, powers and franchises of a public as well as of a private nature, and be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all and singular rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporations on whatever account, as well as for stock subscriptions and all other things in action or belonging to each of the Constituent Corporations, will be vested in the Surviving Corporation, and all property, rights, privileges, powers and franchises, and all and every other interest will be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise, in either of the Constituent Corporations, will not revert or be in any way impaired; but all rights of creditors and all liens upon any property of either of the Constituent Corporations will be preserved unimpaired, and all debts, liabilities and duties of the Constituent Corporations will thereafter attach to the Surviving Corporation, and may be enforced against it to the same extent as if such debts and liabilities had been incurred by it.

3.7 Conversion of Shares of Constituent Corporations.

(a) Conversion of Company Shares.

(i) Subject to the provisions of this Section 3.7, at the Effective Time, by virtue of the Merger and without any further action by the Merger Sub, the Company or holders of any Shares, each share of capital stock of the Company outstanding immediately prior to the Effective Time (collectively, the "Shares," which term shall refer to the Company's common stock ("Common Stock") and all series of the Company's preferred stock ("Preferred Stock") without distinction) outstanding immediately prior to the Effective Time shall be canceled and extinguished and automatically become a right to receive (hereinafter referred to as the "Merger Consideration");

(A) cash (the "Initial Payment") in the amount of Fourteen Million Dollars (\$14,000,000), subject to adjustment pursuant to Section 3.8(c); and

(B) a contingent cash payment (the "Earn Out"), as the same may be adjusted pursuant to Section 3.8(d), equal to the least of:

- (1) Twenty Four Million Dollars (\$24,000,000); or
- (2) three (3) times Servicing Revenue for the calendar year ending December 31, 2005 less \$14,000,000; or
- (3) ten (10) times EBITDA for the calendar year ending December 31, 2005, less \$14,000,000; or
- (4) twenty (20) times after tax net income (determined in accordance with GAAP) for the calendar year ending December 31, 2005 less \$14,000,000;

which Merger Consideration shall be paid by PFPC to the Exchange Agent to be distributed as directed by the Company.

(ii) Notwithstanding anything to the contrary contained herein, solely for purposes of calculating EBITDA and net income (determined in accordance with GAAP) for purposes of calculating the Earn Out, (a) in no event shall any allocated general administrative or overhead expenses or charges be deducted, (b) expenses or costs incurred in connection with the provision of services to the Company by PFPC or any affiliate thereof shall be on terms negotiated in good faith by the Company and PFPC and, absent such negotiated terms, if PFPC requires the Company to use specific services, the costs associated therewith shall be calculated at the lesser of the amount actually charged to the Company therefor or an amount which the Company would pay for such goods and services to an unrelated third party in an arms-length transaction on reasonable market terms, and (c) if any funds are made available by PFPC or any affiliate thereof to the Company, interest will be charged at PFPC's costs of funds. Solely for purposes of calculating the Earn Out, during the period from the date of consummation of the Merger through December 31, 2005 (the "Earn Out Period") (v) the Company shall be operated in the ordinary course of business at all times as a separate subsidiary or division of PFPC or any successor thereto, (w) the Service Agreement shall remain in effect throughout the Earn Out Period on the same terms and conditions as are in effect as of the date hereof, except that Sections 1(b)(i) and (ii) of the Services Agreement shall be omitted for all purposes and shall no longer be effective and Appendix B hereof shall be substituted for Section 3(a) of the Services Agreement, (x) no action shall be taken by or on behalf of PFPC or any Affiliate thereof, the primary purpose of which shall be to reduce the EBITDA, Servicing Revenue (other than as a result of failure or deficiency in performance by the Company) or the net income (determined in accordance with GAAP), (y) no dividends or distributions shall be paid or made by the Company during the Earn Out Period, and (z) the Company shall not issue, sell, grant or award any Equity Interest in the Company that would result in an expense to the Company pursuant to GAAP in calendar year 2005.

(iii) Notwithstanding anything to the contrary contained herein, the Stockholders' Representative further agrees and acknowledges that PFPC shall have a right of set off ("Set Off") against the Initial Payment and any Earn Out payment for (A) Losses for which PFPC may be entitled to indemnity pursuant to the provisions of Article 10 hereof; and (B) any other Losses and expenses for which PFPC shall be entitled to claim, charge to the Company or be reimbursed pursuant to this Agreement; provided, however, that such amounts set off against the Initial Payment and Earn Out shall not exceed the limits set forth in Section 10.5(b) hereof, if applicable.

(b) Conversion of Merger Sub Shares. Each outstanding share of the common stock of the Merger Sub outstanding immediately prior to the Effective Time, by virtue of the Merger and without any action on the part of the Merger Sub, the Company or the holders of the capital

stock of the Merger Sub, shall be cancelled and be extinguished and be exchanged for one share of common stock of the Surviving Corporation.

3.8 Surrender and Payment.

(a) Exchange Agent. Prior to the Effective Time, the Company shall appoint an agent reasonably satisfactory to the Stockholders' Representative (the "Exchange Agent") for the purpose of exchanging certificates representing Shares for the Merger Consideration. Until surrendered to the Exchange Agent, each certificate representing Shares shall, after the Effective Time, represent for all purposes only the right to receive the Merger Consideration as provided herein. PFPC will make available to the Exchange Agent, the Merger Consideration, as the same may be adjusted pursuant to Section 3.7(a)(iii) and Article 10 hereof. For purposes of determining the Merger Consideration to be made available, PFPC shall assume that no Pre-Merger Stockholder will perfect such stockholder's right to appraisal of his or its Shares; provided, however, that the payment by PFPC to the Exchange Agent shall be deemed to have satisfied PFPC's obligations, if any, to make such payments to each Stockholder, including any such Stockholder who or which does perfect his or its right to appraisal. If any portion of the Merger Consideration is to be paid by the Exchange Agent to a Person other than the registered holder of the Shares represented by the certificate or certificates surrendered in exchange therefor, it shall be a condition to such payment that the certificate or certificates so surrendered shall be properly endorsed or otherwise be in proper form for transfer. After the Effective Time, there shall be no further registration of transfers of Shares. If, after the Effective Time, certificates representing Shares are presented to the Surviving Corporation, they shall be canceled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this Section 3.8.

(b) Letter to Stockholders. The Company shall cause a letter of transmittal (the "Transmittal Letter") for use in exchanging original certificates representing the Shares for the Merger Consideration to be mailed to each Pre-Merger Stockholder as soon as practicable after the Option is exercised and to be returned not later than three (3) Business Days prior to the anticipated Closing Date, which Transmittal Letter shall specify (i) that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the certificates representing Shares to the Exchange Agent, and (ii) that each of the Pre-Merger Stockholders approves, confirms and ratifies the Stockholders' Representative's agreement to the applicable provisions of this Agreement, including without limitation Article 10 hereof.

(c) Initial Payment. It is expected that, after the Effective Time, the Exchange Agent shall pay over to the Pre-Merger Stockholders such portion of the Initial Payment, less any Set Off amount allocable thereto, pursuant to instructions agreed to among the Exchange Agent, the Pre-Merger Stockholders and the Company. In order to determine the amount to be paid by PFPC to the Exchange Agent, not less than fourteen (14) days prior to the Effective Time, PFPC shall set forth in writing ("Notice of Set Off") and shall provide to the Stockholders' Representative, in accordance with the notice provisions of Section 11.7, a notice setting forth the amount of Set Off with respect to the Initial Payment and the basis on which such Set Off is claimed. Such Set Off amount shall be deemed to be accepted and agreed to, unless the Stockholders' Representative gives PFPC written notice of its disagreement ("Notice of Disagreement") with such Set Off amount on or before seven (7) days following receipt by the Stockholders' Representative of the Notice of Set Off. During a period of seven (7) days following the receipt by PFPC of a Notice of Disagreement from the Stockholders' Representative, the parties shall attempt to resolve in writing any differences they may have with respect to the matters and amounts specified in the Notice of Disagreement. If at the end of the aforesaid seven (7)-day period, the parties have reached written agreement with respect to certain matters and amounts covered by the Notice of Disagreement, the Initial Payment shall be adjusted to reflect such written agreement and such agreement shall become final and binding upon PFPC and the Pre-Merger Stockholders. If at the end of

the aforesaid seven (7)-day period, the parties shall have failed to reach written agreement with respect to all matters covered by a Notice of Disagreement, then such remaining matters to which written agreement has not been reached (the "Disputed Matters") shall be quantified and such disputed amounts shall be placed in an interest bearing account with an escrow agent mutually acceptable to PFPC and the Stockholders' Representative pursuant to an escrow agreement in a form to be mutually agreed among the parties and the escrow agent, until such Disputed Matters have been finally resolved and any undisputed amounts shall be promptly paid by PFPC to the Exchange Agent.

(d) Earn Out and Set Off.

(i) Preliminary Earn Out Calculation. As soon as practicable following December 31, 2005, but not later than sixty (60) days before April 15, 2006, PFPC, at its expense, shall cause to be prepared and shall provide to the Stockholders' Representative, in accordance with the notice provisions of Section 11.7, its determination of the Earn Out and the Set Off amount, if any, as calculated by a nationally recognized accounting firm selected by PFPC in its sole discretion, prepared from the Books and Records of the Company in accordance with GAAP (as GAAP exists on the date of this Agreement) showing in reasonable detail, as of December 31, 2005, the Servicing Revenues, EBITDA and net income of the Surviving Corporation (the "Preliminary Earn Out Calculation").

(ii) Notice of Disagreement. The Preliminary Earn Out Calculation shall become final and binding upon PFPC and the Pre-Merger Stockholders unless the Stockholder Representative gives a Notice of Disagreement in respect of the Preliminary Earn Out Calculation to PFPC on or before thirty (30) days following the receipt by the Stockholders' Representative of the Preliminary Earn Out Calculation. Such Notice of Disagreement shall specify in reasonable detail the nature of any disagreement so asserted in respect of the Preliminary Earn Out Calculation (including, with out limitation, any disagreement as to any Set Off component). During the ten (10)-day period following the receipt by PFPC of a Notice of Disagreement from the Stockholder Representative, the parties shall attempt to resolve in writing any differences they may have with respect to the matters specified in the Notice of Disagreement. If at the end of the aforesaid ten (10)-day period, the parties have reached written agreement with respect to all matters covered by a Notice of Disagreement, the Preliminary Earn Out Calculation shall be adjusted to reflect such written agreement and such written agreement shall become final and binding upon PFPC and the Pre-Merger Stockholders, and PFPC shall promptly pay to the Exchange Agent an amount equal to the adjusted Preliminary Earn Out Calculation. In connection with the Notice of Disagreement in respect of the Preliminary Earn Out Calculation, PFPC shall provide the Stockholders' Representative, upon reasonable notice and during normal business hours, access to the Surviving Corporation's Books and Records.

(iii) Disputed Matters. If at the end of the aforesaid ten (10)-day period, the parties shall have failed to reach written agreement with respect to all matters covered by a Notice of Disagreement, then all such matters as to which written agreement has not been reached (the "Disputed Matters") shall be submitted to and reviewed by an arbitrator (the "Arbitrator"), which shall be an accounting firm of national reputation jointly retained by PFPC and Stockholders' Representative, and any undisputed amounts shall be promptly paid by PFPC to the Exchange Agent. If PFPC and the Stockholders' Representative are unable to agree on the choice of Arbitrator, the Arbitrator shall be a "big four" national accounting firm selected by lot (after excluding one firm designated by each of PFPC and the Stockholders' Representative).

(iv) Arbitration of Disputed Matters. Each party shall promptly submit to the Arbitrator a written statement summarizing each of the Disputed Matters, such party's proposed resolution of each Disputed Matters, and outlining the methodology utilized by such party in reaching the resolutions reached by such party with respect to each Disputed Matter. Following the

Arbitrator's review of the written statements, each party shall have an opportunity to make a brief oral presentation in support of that party's written statement, and may respond to the Arbitrator's questions, if any. The Arbitrator shall consider only the Disputed Matters and the Arbitrator shall act promptly to resolve all Disputed Matters. Upon resolution by the Arbitrator of all Disputed Matters, the Arbitrator shall prepare and deliver to PFPC and the Stockholders' Representative (i) the Preliminary Earn Out Calculation, adjusted to reflect any written agreement between the parties with respect thereto and (ii) any determination of the Arbitrator with respect to any Disputed Matter (each of which shall be final and binding upon PFPC and the Pre-Merger Stockholders). The expenses of the Arbitrator shall be borne equally by PFPC and the Pre-Merger Stockholders unless the Arbitrator determines that one of the parties has not proceeded in good faith with respect to the matter submitted for arbitration, in which case such party shall fully bear the expenses of the Arbitrator. The award of the Arbitrator shall be final and binding as to the Disputed Matters before it and as to the calculation of the Earn Out and the Set Off. Judgment upon the award of the Arbitrator may be entered by any state or federal court of competent jurisdiction.

(v) Payment of Earn Out. On or before April 15, 2006 (the "Earn Out Payment Date"), PFPC shall pay to the Exchange Agent such portion of the Earn Out as is not subject either to: (a) determination by the Arbitrator or (b) bona fide dispute (the "Undisputed Amount"). In the event PFPC's fails to make the Undisputed Amount available to the Exchange Agent within ten (10) days after the Earn Out Payment Date, the unpaid amounts shall bear interest at a default rate of Prime Rate as set forth in the Wall Street Journal on such tenth day plus two percent (2%) until such amounts are made available to the Exchange Agent. PFPC shall also promptly pay to the Exchange Agent each portion of the Undisputed Amount that has been liquidated either by agreement of the Parties, final determination by the Arbitrator or final determination by any other dispute resolution mechanism as has been properly employed by the parties to obtain a final determination.

ARTICLE 4. CLOSING

4.1 Closing. The consummation of the Merger (the "Closing") will take place at the offices of Pepper Hamilton LLP at 3000 Two Logan Square, Eighteenth and Arch Streets, Philadelphia, PA 19103, commencing at 10:00 a.m. (local time) no fewer than ten (10) Business Days nor more than twenty (20) Business Days after the Option Exercise Date; provided that the conditions set forth in Article 8 have been fulfilled or waived by PFPC. The date on which the Closing is held is referred to as the "Closing Date." Subject to the provisions of Article 9, failure to consummate the Merger on the date and time and at the place determined pursuant to this Section 4.1 will not result in the termination of this Agreement and will not relieve any party of any obligation under this Agreement. In such a situation, the Closing will occur as soon as practicable, subject to the provisions of Article 9.

4.2 Closing Obligations. In addition to any other documents to be delivered under any other provision of this Agreement, at the Closing:

- (a) The Company shall deliver or cause to be delivered to PFPC or the Merger Sub:
- (i) the Certificate of Merger, properly executed by the Company, to be filed with the Secretary of State of the State of Delaware, to effect the Merger;
 - (ii) all of the Company's Books and Records, including without limitation all minute books, stock books, stock transfer ledgers, financial and accounting records, and files; provided, however, that only the Company's minute books, stock books and stock transfer ledgers

will be required to be delivered at the location of the Closing, and the remainder of the Books and Records may be delivered at the Company's principal executive offices;

(iii) the opinion of Wolf, Block, Schorr and Solis-Cohen LLP, counsel for the Company, in form and substance reasonably acceptable to counsel for PFPC, which shall include a bring down of a favorable opinion delivered in connection with the execution hereof that (A) the Set Off contemplated under Article 3 and Article 10 hereof is valid, legally binding and enforceable against each of the Stockholders and (B) the Stockholders' Representative has the authority to execute and deliver this Agreement, to perform each of its obligations and duties hereunder (including, without limitation, the full power and authority on behalf of each Stockholder to take any and all actions on behalf of, execute any and all instruments on behalf of, and execute or waive any and all rights of, each Stockholder to the extent set forth in Section 10.9 hereof), and that this Agreement is valid, legally binding and enforceable against the Stockholders' Representative;

(iv) a certificate executed by the Company as to the accuracy of its representations and warranties as of the date of this Agreement and as of the Closing Date in accordance with Section 8.3(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before the Closing Date in accordance with Section 8.3(b); and

(v) a certificate of the Secretary of the Company certifying, as complete and accurate as of the Closing, attached copies of the Certificate of Incorporation and Bylaws of the Company, certifying and attaching all requisite resolutions or actions of the board of directors and stockholders approving the execution and delivery of this Agreement and the consummation of the Merger and any other document relating to the Merger.

(b) PFPC or the Merger Sub, as the case may be, shall deliver or cause to be delivered to the Company or the Stockholder's Representative as the case may be:

(i) the Initial Payment by wire transfer to the accounts specified in writing to PFPC or the Merger Sub at least three (3) business days prior to the Closing Date;

(ii) the opinion of Pepper Hamilton LLP, counsel for PFPC, in form and substance acceptable to counsel for the Company;

(iii) a certificate executed by PFPC as to the accuracy of its representations and warranties as of the date of this Agreement and as of the Closing which take in consideration the Merger Sub as the incorporated) in accordance with Section 8.2(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before the Closing in accordance with Section 8.2(b); and

(iv) a certificate of the Secretary of the Merger Sub certifying, as complete and accurate as of the Closing, attached copies of the Certificate of Incorporation and Bylaws of the Merger Sub, certifying and attaching all requisite resolutions or actions of the board of directors and stockholders approving the execution and delivery of this Agreement and the consummation of the Merger and any other document relating to the Merger.

4.3 **Subsequent Documents.** Each of the Company, its Subsidiaries and PFPC, as the case may be, shall at any time and from time to time upon the request of any party hereto execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such further assignments, instruments of sale and transfer and other documents as may be reasonably required for the effective and complete consummation of the transactions contemplated hereby.

**ARTICLE 5.
REPRESENTATIONS AND WARRANTIES
OF THE COMPANY**

Each of the Company and its Subsidiaries hereby represents and warrants to PFPC and the Merger Sub that the statements contained in this Article 5 are true, correct and complete as of the date of this Agreement:

5.1 Organization, Standing and Authority.

(a) Each of the Company and its Subsidiaries is a corporation or other entity duly organized, validly existing and in good standing or subsisting under the laws of its jurisdiction or organization. Each of the Company and its Subsidiaries is duly authorized to conduct business and is in good standing under the laws of each jurisdiction where such qualification is required. Each of the Company and its Subsidiaries has the organizational power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts or proposes to transact, and to execute and deliver this Agreement and perform the provisions thereof. None of the Company or any of its Subsidiaries is in violation of any term of any Constituent Document applicable to it, or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to it.

(b) Attached hereto as Schedule 5.1(b) are the Constituent Documents, all of which are true, correct and complete copies. The Constituent Documents are each valid and legally binding obligations of the parties thereto, enforceable in accordance with their terms, subject to the effects, if any, of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law). Schedule 5.1(b) sets forth all other agreements, contracts or understandings relating to the governance of Company or to which a stockholder of the Company is a party relating to its Shares.

5.2 Capital Structure of Company; Title to Shares.

(a) The capital structure of Company is as set forth in its certificate of incorporation, a copy of which is attached hereto as Schedule 5.2(a).

(b) Schedule 5.2(b) hereto contains a complete and correct list of each Person owning or holding, whether beneficially or of record, any Shares, showing, as to each Person, his, her or its correct name and address, and the jurisdiction of its organization, if applicable, and amounts and percentages of Preferred Stock and Common Stock owned. The Shares set forth on Schedule 5.2(b) constitute all of the outstanding Equity Interests of the Company. None of the outstanding Equity Interests of the Company was issued in violation of the Securities Act or any other applicable laws (including blue sky laws).

(c) Except as disclosed in Schedule 5.2(c): (i) each of the Stockholders has good and valid title to the Shares owned by him, her or it and has the full right, power and authority to execute the Transmittal Letter on his, her or its behalf, (ii) no stockholder is a party to any Constituent Document, (iii) none of the Shares have been issued in violation of the Rights of any Person, and (iv) all of the Shares have been duly authorized, validly issued, are fully paid and non-assessable.

5.3 Subsidiaries; Affiliates; Conflict of Interest.

(a) The Company (by itself or through its wholly-owned direct or indirect Subsidiaries) owns all of the issued and outstanding Equity Interests of each of its Subsidiaries. Except as set forth in Schedule 5.3(a), each outstanding Equity Interest of each of the Company's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, as the case may be, and each such interest owned by Company or one of its Subsidiaries is free and clear of any restrictions on transfer, Liens, Taxes, or Rights. None of the outstanding Equity Interests of the Subsidiaries of the Company was issued in violation of the Securities Act or any other applicable laws (including blue sky laws).

(b) The business of the Company is conducted by the Company and its Subsidiaries and is not directly or indirectly conducted through any other Affiliate of the Company, or by any other entity. Except as set forth in Schedule 5.3(b), no Affiliate of the Company has any direct or indirect interest (other than an investment interest in no more than five percent (5%) of the stock of a publicly traded company) in any creditor, competitor, supplier, customer, or lessor.

(c) Except as set forth in Schedule 5.3(c), no Affiliate of the Company is presently a party to any agreement or arrangement with the Company: (i) providing for the furnishing of raw materials, products or services to or by, or (ii) providing for the sale or rental of real or personal property to or from, any such entity.

(d) Except as set forth in Schedule 5.3(d), no Affiliate of the Company has any interest in: (i) any contract, arrangement or understanding with, or relating to, the business or operations of the Company; (ii) any loan, arrangement, understanding, agreement or contract for or relating to indebtedness of the Company; or (iii) any property (real, personal or mixed), tangible or intangible, used or currently intended to be used in, the business or operations of the Company.

5.4 Authorized and Effective Agreement; No Conflict.

(a) The Company has all requisite power and authority to enter into and perform all of its obligations under this Agreement. The execution and delivery of this Agreement and the consummation of the Merger and other transactions contemplated hereby have been duly and validly authorized by all necessary corporate and stockholder action.

(b) This Agreement constitutes the legal, valid and binding obligations of Company, enforceable against the Company in accordance with its terms, subject to the effects, if any, of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law).

(c) Except as set forth on Schedule 5.4(c), neither the execution and delivery of this Agreement, nor consummation of the transactions contemplated hereby, nor compliance by the Company with any of the provisions hereof does or will (i) conflict with or result in a breach of any provision of any Constituent Document, (ii) constitute or result in a breach in any material respect of any term, condition or provision of, or constitute a default under or result in a loss of rights by the Company or any of its Subsidiaries under, or give any other party any right of termination, cancellation, repricing, renegotiation or acceleration with respect to, or result in the creation of any Lien or assertion of any claim upon the Company or any Subsidiary or any of their respective property or assets pursuant to any note, bond, mortgage, indenture, license, agreement or other instrument or obligation (including the Constituent Documents and applicable law) to which the Company, its Subsidiaries or any stockholder of the Company is a party or by which any of their properties or assets are bound, or (iii) violate any Law or order, writ, injunction, decree applicable to the Company, its Subsidiaries or any stockholder of the Company.

(d) None of the Company's or any of its Subsidiaries' "wrap fee programs" (as such term is defined in Rule 204-3(g)(4) promulgated under the Investment Advisers Act of 1940) is an "investment company" as defined in the Investment Company Act of 1940, and each such wrap fee program complies with all applicable federal and state laws, regulations, guidelines, statements of policy and other federal or state governmental requirements.

5.5 Government and Third Party Approvals. Except as set forth in Schedule 5.5 (which Schedule includes all consents contemplated by Section 8.1 hereof), no consent, approval or authorization of, or declaration, notice, filing or registration with, any Governmental Authority, or any other Person, is required to be made or obtained by the Company, its Subsidiaries or any Stockholder on or prior to the Closing Date in connection with the execution, delivery and performance of this Agreement by the Company or the consummation by Company of the transactions contemplated hereby.

5.6 Financial Statements; Projections; Books and Records.

(a) The Company has delivered to PFPC audited annual Financial Statements for the year ended December 31, 2001, and unaudited interim Financial Statements for the period January 1, 2002 through August 31, 2002, copies of which are attached as Schedule 5.6(a). All of said Financial Statements (including in each case the related schedules and notes) fairly present in all material respects the financial condition of Company for the specified dates and periods and the results of operations and cash flows for the specified periods and have been prepared in accordance with GAAP consistently applied throughout the periods involved, except as set forth in the notes thereto (subject, in the case of any interim Financial Statements, to the omission of notes thereto and normal year-end adjustments).

(b) Company has delivered to PFPC projections of its anticipated financial performance for the period beginning with the fourth quarter of 2002 and continuing through first quarter of 2005 (the "Financial Projections") as attached hereto as Schedule 5.6(b). The Financial Projections were prepared in good faith by Company based on assumptions its management believed to be reasonable at the date of their preparation and, in the opinion of management of Company, the underlying assumptions provide a reasonable basis for such Financial Projections.

(c) The Books and Records of the Company and its Subsidiaries fairly reflect in all material respects the transactions to which they are parties or by which their properties and assets are subject or bound. Such Books and Records have been properly kept and maintained and are in compliance in all material respects with all applicable legal and accounting requirements. The minute books of the Company contain records which are accurate in all material respects of all corporate actions of the stockholders of the Company and the Board of Directors of the Company.

5.7 Absence of Undisclosed Liabilities. None of the Company or any of its Subsidiaries has any liability (contingent or otherwise) combined with all similar liabilities that exceeds \$100,000, except (i) as reflected, reserved or disclosed in the Financial Statements, or (ii) disclosed in Schedule 5.7, and none of the Company or any of its Subsidiaries has incurred any liability since the date of the most recent Financial Statements delivered pursuant to Section 5.6(a) which exceeds \$250,000 in any one month or \$500,000 in any calendar quarter without PFPC's prior written consent.

5.8 Legal Proceedings. Except as set forth on Schedule 5.8, there are no actions, suits or proceedings instituted, pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries or against any asset, interest or right of the Company or any of its Subsidiaries. There are no actions, suits or proceedings instituted, pending, or, to the Knowledge of the

Company or any of its Subsidiaries, threatened by or against any Stockholder of the Company relating to or arising out of any such Person's relationship with the Company.

5.9 Compliance with Laws. Except as set forth on Schedule 5.9, each of the Company and its Subsidiaries is in compliance in all material respects with all statutes and regulations applicable to the conduct of its business, including without limitation, federal and state securities laws, and none of the Company or any of its Subsidiaries has received notification from any Governmental Authority (i) asserting a violation of any such statute or regulation, (ii) threatening to revoke any license, franchise, permit or government authorization, or (iii) restricting or in any way limiting its operations.

5.10 Permits and Approvals. Schedule 5.10 contains a true and correct description of all licenses, permits, approvals, authorizations, consents and registrations (the "Permits") issued in favor of the Company and its Subsidiaries, all of which are in full force and effect, and the business of the Company and its Subsidiaries is currently being operated in compliance with the terms of each of the foregoing. The Permits listed on Schedule 5.10 are the only Permits required to operate the business of the Company and its Subsidiaries as it is currently operated or as it is proposed to be operated (as evidenced by the discussion of such proposal at a meeting, in the minutes of a meeting or in a unanimous consent of the Board of Directors of the Company).

5.11 Insurance. Schedule 5.11 sets forth a complete and accurate list of all insurance coverage maintained by the Company or any of its Subsidiaries on behalf of themselves or their employees. The Company and its Subsidiaries currently maintain insurance in amounts reasonably necessary for their operations. None of the Company or any of its Subsidiaries has within the past two years received any notice of a premium increase or cancellation with respect to any of its insurance policies or bonds (whether applicable to itself or any of its employees) other than in the ordinary course of business and that did not result from any extraordinary loss experience of the Company or any of its Subsidiaries, and within the past three years, neither the Company nor its Subsidiaries has been refused any insurance or bonding coverage sought or applied for with respect to itself or its employees, and none of the Company or any of its Subsidiaries has any reason to believe that existing insurance and bonding coverage cannot be renewed as and when the same shall expire, upon terms and conditions as favorable as those presently in effect, except for possible increases in premiums or unavailability in coverage that have not resulted from any extraordinary loss experience of the Company or any of its Subsidiaries.

5.12 Properties. None of the Company or any of its Subsidiaries possesses fee simple title to any real property. Except for Liens granted by the Company to its stockholders who hold the Company's "Senior Secured Convertible Notes Due 2003" (and the Company shall cause all of such Liens to be released as soon as practicable after the date hereof), the Company and its Subsidiaries have good and marketable title free and clear of all Liens to all of the personal properties and assets, reflected on the Financial Statements as of August 31, 2002 or acquired after such date, including without limitation the Intellectual Property Rights. Schedule 5.12 sets forth a complete and accurate list all leases to which the Company or any of its Subsidiaries, as lessee or as guarantor or otherwise, leases any real or material item of personal property (each a "Lease"), and each Lease is valid and enforceable in accordance with its terms.

5.13 Intellectual Property.

(a) Schedule 5.13(a) sets forth a complete list of all contracts with third parties relating to the Company Intellectual Property Rights. Other than as specified on Schedules 5.13(a) and 5.13(b), the execution, delivery and performance of this Agreement by the Company, and the consummation of the transactions contemplated hereby shall not constitute a material breach or default of any instrument, contract, license or other agreement granting, licensing or otherwise governing or

affecting any Company Intellectual Property Rights and shall not cause the forfeiture or termination or give rise to a right of any Person to cause the forfeiture or termination, of any Company Intellectual Property Rights. Other than as specified in Schedule 5.13(a), there are no royalties, fees or other payments under any agreement payable by the Company or any of its Subsidiaries to any Person by reason of the ownership, use, license, sale or disposition of any of the Company Intellectual Property Rights. Other than as specified on Schedule 5.13(a), neither Company nor its Subsidiaries or any other Person is in breach or default under any of the agreements listed in Schedule 5.13(a) and each such agreement is as of the date hereof and immediately following the Closing Date will be valid and in full force and effect.

(b) Schedule 5.13(b) sets forth a list of all Copyrights, including, without limitation, Software, Patent Rights and Trademarks owned by or licensed to the Company or any of its Subsidiaries and all registrations and applications therefor. Included in Schedule 5.13(b) is a list of third party Intellectual Property Rights licensed to Company for which no contract is listed in Schedule 5.13(a). There are no Copyrights, Patent Rights, Software or Trademarks that are used in or necessary for the conduct of the Business that are not set forth on Schedule 5.13(b).

(c) Schedule 5.13(c) sets forth a list of all Company Software specifying as to each item of Company Software (i) all service marks and trademarks used in connection therewith, and (ii) the third party Intellectual Property incorporated therein. There is no Company Software that is used in the conduct of the Business that is not set forth on Schedule 5.13(c).

(d) Except as set forth in Schedule 5.13(d), the Company owns all Intellectual Property Rights in and to the Company Software.

(e) The Company's or any of its Subsidiaries' use of the Company Software in the conduct of its Business does not: (i) violate any license or agreement between the Company or any of its Subsidiaries and any other Person; (ii) except to the extent of the third party Intellectual Property specified in Schedule 5.13(c)(ii), infringe any Intellectual Property Right of any other Person; or (iii) to the Company's or any of its Subsidiaries' Knowledge, infringe any Intellectual Property Right of any other Person.

(f) The Company's or any of its Subsidiaries' use of Intellectual Property Rights, other than the Company Software, in the conduct of the Business does not: (i) violate any license or agreement between the Company or any of its Subsidiaries and any other Person; or (ii) to the Company's or any of its Subsidiaries' Knowledge infringe any Intellectual Property Right of any other Person.

(g) The Company or its Subsidiaries: (i) own the entire right, title and interest in and to the Company Intellectual Property Rights, free and clear of any liens, claims or other encumbrances; or (ii) has a valid contractual right or license to use the same in the conduct of the Business. Except as set forth in Schedule 5.13(g), the Company has a valid and enforceable written confidentiality and assignment agreement with every individual person and entity, including any employee, consultant, independent contractor or otherwise, who created, developed or modified any Intellectual Property Rights on behalf of the Company under which agreements each such individual person and entity has irrevocably assigned all right, title and interest in and to all such Intellectual Property Rights to the Company. Except as set forth in Schedules 5.13(a), 5.13(b), and 5.13(g), upon consummation of the transactions contemplated by this Agreement, the Company and its Subsidiaries will be entitled to continue to use all Company Intellectual Property Rights, as currently used in the conduct of the Business, without the payment of any material fees, licenses, or other payments not currently required for such use, in each case, on account of the change in ownership of the Company and its Subsidiaries.

(h) All registrations that are owned by the Company or any of its Subsidiaries for Copyrights, Patent Rights and Trademarks are valid and in force, and all applications to register any unregistered Copyrights, Patent Rights and Trademarks so identified are pending and in good standing, all without challenge of any kind from third parties or the relevant governmental agency or office; and the Company or its Subsidiaries has the right to bring actions for infringement or unauthorized use of the Copyrights (if in the United States, then to the extent allowed by applicable federal law), Patent Rights, Trademarks and Software owned by the Company or any of its Subsidiaries.

(i) There is no pending or, to the Knowledge of the Company, threatened, claim or litigation contesting the validity, ownership or right to use, sell, license or dispose of any Company Intellectual Property Rights, nor is there any valid basis for any such claim, nor has the Company received any written notice asserting that any Company Intellectual Property Rights or the proposed use, sale, license or disposition thereof infringes, misappropriates or otherwise conflicts with or shall infringe, misappropriate or otherwise conflict with the rights (including without limitation the Intellectual Property Rights) of any other Person.

(j) Except as set forth in Schedules 5.13(a) and (g), the Company or its Subsidiaries own all right, title and interest in and to all work product prepared by or for the Company or its Subsidiaries pursuant to any contract, agreement, license or other instrument relating to Company Software, and the Company has not customized Company Software, for, or jointly with, any Person. Except as set forth in Schedule 5.13(a), no third party that has licensed any Intellectual Property to Company or its Subsidiaries has any ownership rights or license rights to improvements or modification made by or for Company or its Subsidiaries in such Intellectual Property.

(k) No current or former Stockholder, director, officer, employee, consultant or independent contractor of Company or its Subsidiaries has asserted any claim of ownership of, or interest in, any of the Intellectual Property used in or necessary to the conduct of the Business. No Subsidiary has asserted or may assert any claim of ownership of, or interest in, any of the Intellectual Property used in or necessary to the conduct of the Business.

(l) No (i) Company Software, (ii) material published or distributed by Company or its Subsidiaries, or (iii) conduct or statement of Company, or its Subsidiaries constitutes a defamatory statement or false advertising, or otherwise violates any Law.

(m) Neither Company nor its Subsidiaries has disclosed, or allowed to be disclosed, verbally or in writing, any confidential information relating to the Company Software to any Person other than (i) a Person having a written obligation to Company or its Subsidiaries to hold the confidential information in strict confidence and use the confidential information only for the benefit of Company or its Subsidiaries, and (ii) the individuals identified in Schedule 5.13(g).

5.14 Tax Matters.

(a) The Company and each of its Subsidiaries has timely filed or caused to be filed (or intends to timely file or cause to be filed prior to Closing), all Tax Returns required by applicable law for the period prior to the Closing Date. The Company and its Subsidiaries have paid (or will timely pay prior to Closing) all Taxes due under applicable law (whether or not shown on any Tax Return) with respect to the Company or its Subsidiaries for the period prior to and including the Closing Date or with respect to current Taxes due and unpaid but not yet delinquent, have accrued or will properly accrue the liability therefor on the Financial Statements. No audit examination or deficiency or refund litigation with respect to any such Taxes or Tax Returns relating to the Company or any of its

Subsidiaries is pending. Neither the Company nor any Subsidiary will have any material liability for any such Taxes in excess of the amounts so paid or accrued on the Financial Statements.

(b) All Tax Returns, whether required or permitted to be filed, that have been filed by or with respect to the Company or any of its Subsidiaries are complete and accurate in all material respects. None of the Company or any of its Subsidiaries is delinquent in the payment of any Tax, and none the Company or any of its Subsidiaries has requested any extension of time within which to file any Tax Returns which have not since been filed. No deficiencies for any Tax have been proposed, asserted or assessed (tentatively or otherwise) against the Company or any of its Subsidiaries which have not been settled and paid. No jurisdiction in which the Company or any of its Subsidiaries is not filing Tax Returns has provided notice that the Company or any of its Subsidiaries may be subject to Tax in such jurisdiction. There are currently no agreements in effect with respect to the Company or any of its Subsidiaries to extend the period of limitations for the assessment or collection of any Tax.

(c) There is no contract, agreement, plan or arrangement covering any current or former employee of the Company or any of its Subsidiaries that, individually or collectively, could give rise to a payment of any amount that would not be deductible by reason of Section 162(a)(1) or 280G of the Code; provided, however, that there shall be no liability for any breach of this representation if any deduction arising from (i) the grant to employees of up to 17,146 shares of Class S Common Stock under the Company's 2002 Stock Incentive Plan (which Plan shall terminate upon the consummation of the Merger) granted on or prior to the execution date of this Agreement, (ii) the grant to employees of up to 595,657 shares in the aggregate of Class A Common Stock under the Company's 2002 Stock Incentive Plan, which shares were granted on or prior to the execution date of this Agreement or will be granted in part as of the last day of each of the ten consecutive calendar quarters, commencing with the calendar quarter ending December 31, 2002, or at such earlier date as permitted under the 2002 Stock Incentive Plan, and (iii) 87,691 shares of Class S Common Stock otherwise outstanding on the execution date of this Agreement, is limited, disallowed or lost, but there shall be liability for such breach if and to the extent PFPC incurs any other Loss or expense in connection therewith.

(d) None of the Company nor any of its Subsidiaries has been a member of an affiliated group, as defined in Section 1504 of the Code, other than one in which the Company is the common parent.

(e) There is no written tax sharing or allocation agreement to which the Company or any of its Subsidiaries is a party.

(f) The Company has not, within the past two years, distributed the stock of any corporation in a transaction that was intended to qualify under Section 355(a) of the Code.

(g) The Company and each of Subsidiaries as of the Effective Time will have paid to the appropriate taxing authority or have withheld (in a separate segregated account) with respect to its employees all federal and state income taxes, FICA, FUTA and other Taxes required to be withheld.

5.15 Employee Benefit Plans.

(a) The Company has previously delivered to PFPC each bonus, deferred compensation, incentive compensation, stock purchase, stock option, severance pay, medical, life or other insurance, profit-sharing, or pension plan, program, agreement or arrangement, and each other employee benefit plan, program, agreement or arrangement, sponsored, maintained, contributed to, or required to be

contributed to, by the Company or any of its Subsidiaries, or by any trade or business, whether or not incorporated, that together with the Company and its Subsidiaries would be deemed a "single employer" under Section 414 of the Code (an "ERISA Affiliate") for the benefit of any employee, director or former employee or director, whether formal or informal (the "Plans"). Neither the Company nor its Subsidiaries has any formal plan or commitment to create any additional plan or modify or change any existing Plan that would affect any employee or director or former employee or director of the Company or any of its Subsidiaries.

(b) With respect to each of the Plans, the Company has previously delivered to PFFC true and complete copies of each of the following documents: (i) the Plan and related documents (including all amendments thereto); (ii) the two most recent annual reports and financial statements, if any; (iii) the most recent summary plan description or other plan description, all modifications and updates thereto, and all material employee communications relating to such Plan; and (iv) the most recent determination letter and/or opinion letter received from the Internal Revenue Service with respect to each Plan that is intended to be qualified under the Code, and all material communications to or from the IRS or any other governmental or regulatory authority relating to each Plan.

(c) No liability under Title IV of ERISA has been incurred by the Company, its Subsidiaries or any ERISA Affiliate that has not been satisfied in full, and no condition exists that presents a material risk to the Company, its Subsidiaries or any ERISA Affiliate of incurring a liability under such Title. None of the Plans is subject to Section 412 of the Code, Section 302 of ERISA, or Title IV of ERISA, and none of the Company, its Subsidiaries or any ERISA Affiliate has ever sponsored, maintained, contributed to, or had any liability with respect to any pension plan (within the meaning of Section 3(2) of ERISA) that was subject to Section 412 of the Code, Section 302 of ERISA, or Title IV of ERISA.

(d) Except as set forth on Schedule 5.15(d), none of the Company, its Subsidiaries or any ERISA Affiliate, nor any of the Plans, nor any trust created thereunder, nor any trustee or administrator thereof has engaged in a transaction in connection with which the Company, its Subsidiaries, any of the Plans, or any such trust, could, directly or indirectly, be subject to a civil penalty assessed pursuant to Section 409 or 502(i) of ERISA, a tax imposed pursuant to Section 4975 or 4976 of the Code, or any other material liability (other than liabilities for contributions to the Plans and payment of benefits thereunder in accordance with the terms of the Plans).

(e) Full payment has been made, or will be made in accordance with Section 404(a)(6) of the Code, of all amounts that the Company or any of its Subsidiaries is required to pay under the terms of the Plans with respect to the period prior to the Closing Date, and all such amounts accrued through the Date will be paid on or prior to the Closing Date or will be properly recorded on the Financial Statements.

(f) None of the Plans is a "multiemployer pension plan," as such term is defined in Section 3(37) of ERISA, a "multiple employer welfare arrangement," as such term is defined in Section 3(40) of ERISA, or a single employer plan that has two or more contributing sponsors, at least two of whom are not under common control, within the meaning of Section 4063(a) of ERISA.

(g) Each of the Plans that is intended to be "qualified" within the meaning of Section 401(a) of the Code is so qualified and a favorable determination letter or opinion letter to that effect has been issued by the IRS with respect to each such Plan. Each of the Plans that is intended to satisfy the requirements of Section 125 or 501(c)(9) of the Code satisfies such requirements. Each of the Plans has been operated and administered in all material respects in accordance with its terms and

applicable laws, including but not limited to ERISA and the Code, as well as final and temporary regulations issued under ERISA and the Code.

(h) Except as set forth in Schedule 5.15(h), each Plan may be amended or terminated without liability to the Company or any of its Subsidiaries (other than liability for contributions to the Plans and payment of benefits thereunder) in accordance with terms of the Plans through, in the case of the termination, the effective date of the termination of the Plan. No amounts payable under the Plans will fail to be deductible for federal income tax purposes by reason of Sections 162(m) or 280G of the Code; provided, however, that there shall be no liability for any breach of this representation if any deduction arising from (i) the grant to employees of up to 17,146 shares of Class S Common Stock under the Company's 2002 Stock Incentive Plan (which Plan shall terminate upon the consummation of the Merger) granted on or prior to the execution date of this Agreement, (ii) the grant to employees of up to 595,657 shares in the aggregate of Class A Common Stock under the Company's 2002 Stock Incentive Plan, which shares were granted on or prior to the execution date of this Agreement or will be granted in part as of the last day of each of the ten consecutive calendar quarters, commencing with the calendar quarter ending December 31, 2002, or at such earlier date as permitted under the 2002 Stock Incentive Plan, and (iii) 87,691 shares of Class S Common Stock otherwise outstanding on the execution date of this Agreement, is limited, disallowed or lost, but there shall be liability for such breach if and to the extent PFPC incurs any other Loss or expense in connection therewith. Each Person who performs services for the Company or any of its Subsidiaries has been, and is, properly classified by the Company or its Subsidiaries as an employee or independent contractor.

(i) There are no actions, suits, or claims pending, or, to the Knowledge of the Company, threatened or anticipated (other than routine claims for benefits) against any Plan, the assets of any Plan or against the Company or any of its Subsidiaries with respect to any Plan. There is no judgment, decree, injunction, rule or order of any court, Governmental Authority, or arbitrator outstanding against or in favor of any Plan or any fiduciary thereof with respect to any Plan (other than rules of general applicability). There are no pending or threatened audits or investigations by any Governmental Authority involving any Plan.

(j) No Plan provides benefits, including without limitation death or medical benefits (whether or not insured), with respect to current or former employees, managers or directors after retirement or other termination of service, other than (i) coverage mandated by applicable law, (ii) death benefits or retirement benefits under any "employee pension plan," as that term is defined in Section 3(2) of ERISA, (iii) deferred compensation benefits accrued as liabilities on the Financial Statements, or (iv) benefits, the full cost of which is borne by the current or former employee, manager or director (or his beneficiary).

(k) None of the assets of the Plans (i) constitute employer real property or employer securities (within the meaning of Section 407(d) of ERISA), or (ii) are invested in any property, security or other ownership interest that is not publicly traded, other than annuity contracts issued by insurance companies.

(l) The consummation of the transactions contemplated by this Agreement will not result in, and is not a precondition to (i) any current or former employee or director of the Company or any of its Subsidiaries becoming entitled to severance pay, unemployment compensation or any similar payment, (ii) any acceleration in the time of payment or vesting, or increase in the amount, of any compensation due to any such current or former employee or director, or (iii) any renewal or extension of the term of any agreement regarding compensation for any such current or former employee or director.

(m) Schedule 5.15(m) sets forth a list of all employees of the Company and each of its Subsidiaries, together with the following information for each employee: name; job title; date of hire; date of birth; employment classification (e.g., full-time, part-time); status (e.g., active, on leave of absence); base salary or base hourly rate, as applicable; and number of vacation days taken since January 1, 2001 through the date hereof.

5.16 Environmental and Safety Laws.

(a) The Company and each of its Subsidiaries is, and at all times has been, in compliance with and has not been and is not in violation of any applicable statute, law or regulation relating to the environment or occupational health and safety (collectively, "Environmental Laws"), and no material expenditures are or will be required in order to comply with any such existing statute, law or regulation. None of the Company or any of its Subsidiaries has any basis to expect, nor has any of them or any other Person for whose conduct they are or may be held to be responsible received, any actual or threatened order, notice or other communication from (i) any Governmental Authority or private citizen acting in the public interest or (ii) the current or prior owner or operator of any real property owned or leased by the Company or any of its Subsidiaries, of any actual or potential violation or failure to comply with any Environmental Law, or of any actual or threatened obligation to undertake or bear any Losses relating to a violation of any Environmental Laws with respect to any owned real property, leased real property or other property or asset (whether real, personal or mixed) in which the Company or any of its Subsidiaries has or had an interest, or with respect to any property at or to which Hazardous Materials (as defined in Section 5.16(b) were generated, manufactured, refined, transferred, imported, used or processed by the Company, its Subsidiaries or any other Person for whose conduct the Company or any of its Subsidiaries is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) No Hazardous Materials are used or have been used, stored, or disposed of by the Company or any of its Subsidiaries or, to the Company's or any of its Subsidiaries' actual knowledge, by any other Person or entity on any property owned, leased or used by the Company or any of its Subsidiaries in violation of applicable law. For the purposes of the preceding sentence, "Hazardous Materials" shall mean (a) materials which are listed or otherwise defined as "hazardous" or "toxic" under any applicable local, state, federal and/or foreign laws and regulations that govern the existence and/or remedy of contamination on property, the protection of the environment from contamination, the control of hazardous wastes, or other activities involving hazardous substances, including building materials, or (b) any petroleum products or nuclear materials.

5.17 Labor Matters.

(a) No collective bargaining arrangement or agreement or similar arrangement or agreement with any labor organization, or work rules or practices agreed to with any labor organization or employee association, exists which is binding upon the Company on any of its Subsidiaries. There are no unfair labor practice complaints pending against the Company or any of its Subsidiaries before any Governmental Authority. There are no strikes, slowdowns, work stoppages, lockouts, or, to the Knowledge of the Company, threats thereof, by or with respect to any employees of the Company or any of its Subsidiaries. None of the Company or any of its Subsidiaries has experienced any attempt by organized labor or its representatives: (i) to make the Company or any of its Subsidiaries conform to demands of organized labor relating to their employees; (ii) to enter into a binding agreement with organized labor that would cover the employees of the Company or any of its Subsidiaries; or (iii) to organize the employees of the Company or any of its Subsidiaries into a collective bargaining unit, or petition the National Labor Relations Board for an election. None of the Company or any of its

Subsidiaries has ever experienced a work stoppage. None of the Company or any of its Subsidiaries has ever experienced a material labor dispute.

(b) There are no claims, causes of action, charges, suits, complaints, administrative proceedings, government investigations or proceedings, arbitrations or other proceedings pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries or any of the Company's or any of its Subsidiaries' officers, directors or employees relating to any current or former employee with respect to employment matters relating to the Company or any of its Subsidiaries, and none of the Company or any of its Subsidiaries has received any notice of, nor has knowledge of any basis for any claim or assertion of liability against the Company on any of its Subsidiaries, relating to any federal, state, local or foreign law and regulations or the common law relating to employment or employment practices in regard of any current or former employee.

5.18 Certain Contracts.

(a) Except as set forth Schedule 5.18(a), none the Company or any if its Subsidiaries is a party to, nor are they bound by:

(i) any agreement, arrangement or commitment whether or not made in the ordinary course of business restricting their business activities;

(ii) any agreement, arrangement or commitment relating to the employment of a consultant or the employment, election, retention in office or severance of any present or former officer, manager or employee; or

(iii) any contract for the future purchase or sale of real property;

(iv) any loan agreements, promissory notes, indentures, bonds, security agreements, guarantees or obligations for borrowed money or other instruments involving indebtedness;

(v) any partnership, joint venture or other similar agreement or arrangement;

(vi) any written agreement, contract, arrangement or understanding containing any covenant or provision which: (A) prohibits the Company or any of its Subsidiaries from engaging in any line or type of business or from competing with any Person; (B) commits the Company or any of its Subsidiaries to an exclusive purchase relationship with any vendor; (C) commits the Company or any of its Subsidiaries to provide any product or service exclusively to a particular customer; (D) prohibits the Company or any of its Subsidiaries from soliciting the employment of any Person; (E) prohibits the Company or any of its Subsidiaries from soliciting any Person to become a customer of the Company or any of its Subsidiaries; (F) requires the Company or any of its Subsidiaries to make or obtain referrals of any Person exclusively to or from any other Person; or (G) grants to any Person a right of first refusal or right of first offer on the sale of any properties or assets of the Company or any of its Subsidiaries or of any Equity Interest of the Company or any of its Subsidiaries;

(vii) any agreement, contract, commitment for the future purchase of, or payment for, supplies or products, or for the performance of services by any Person, involving in any one case \$10,000 or more;

(viii) any agreement, contract, commitment to sell or supply products or to perform services, involving in any one case \$10,000 or more;

(ix) any representative or sales agency agreement, contract or commitment, involving in any one case \$10,000 or more;

(x) any lease of real property or any lease of personal property under which the Company or any of its Subsidiaries is either the lessor or lessee, involving in any one case \$10,000 or more;

(xi) any agreement, contract or commitment for any charitable or political contribution; or

(xii) any agreement, contract, or commitment for any capital expenditure in excess of \$10,000.

(b) None of the Company or any of its Subsidiaries is, and, to the knowledge of the Company, no other party thereto is, in default in any material respect under any agreement, commitment, arrangement, lease, insurance policy or other instrument to which the Company or any of its Subsidiaries is a party whether entered into in the ordinary course of business or otherwise and whether written or oral, and there has not occurred any event that, with the lapse of time or giving of notice or both, would constitute such a default.

(c) Since January 1, 2001, none of the Company or any of its Subsidiaries has incurred or paid any obligation or liability that would be material to the Company or the Business, except for (i) obligations incurred or paid in the ordinary course of business of the Company and its Subsidiaries consistent with past practices, (ii) that certain bridge loan in the principal amount of \$150,000 by Paul Krupa to the Company on September 27, 2002, and (iii) the payment which may be made on or after the date hereof and prior to the Closing Date, in full satisfaction of that certain 12.5% Convertible Subordinated Note Due 2000 (as amended), in the original principal amount of \$100,000, issued on or about August 14, 2000, by the Company to Boone Family LP, which payment shall be in the amount of \$120,000 (or such other amount, not to exceed the actual outstanding principal balance plus accrued and unpaid interest thereon, as to which the Company and the holder agree).

(d) Except for normal advances to fund business expenses incurred in the ordinary course of business, no stockholder or employee of the Company or any of its Subsidiaries and no Affiliate of any such Person has any loan or other obligation outstanding to or from the Company or any of its Subsidiaries or for which the Company or any of its Subsidiaries is or may be liable under guaranty or otherwise, has any business relationship with the Company or any of its Subsidiaries (other than as a stockholder, employee or consultant of the Company or any of its Subsidiaries, as the case may be), or has any interest in any Person with which the Company or any of its Subsidiaries has entered into any contract or lease, or with which the Company or any of its Subsidiaries does any business and which would influence that Person in doing business with the Company or any of its Subsidiaries.

5.19 Brokers and Finders. No stockholder, nor the Company or any of its Subsidiaries, or any of their managers, officers, agents, attorneys, directors or employees, has employed any broker, finder or financial advisor or incurred any liability for any fees or commissions (other than legal and accounting fees) in connection with the transactions contemplated herein.

5.20 No Material Adverse Effect. Since January 1, 2002, none of the Company or any of its Subsidiaries has suffered any damage, destruction or loss to any material part of its assets

(whether real or personal or mixed, tangible or intangible), and no event or circumstance has occurred or exists, that individually or in the aggregate has resulted or could be expected to result in a Material Adverse Effect; provided that operating losses, to the extent they do not exceed (a) \$4,700,000 for the period beginning January 1, 2002 and ending September 30, 2002 and (b) \$1,000,000 in any calendar quarter ending after September 30, 2002, shall not, for purposes of this Section 5.20 only, be considered to result in a Material Adverse Effect.

5.21 Disclosure. This Agreement does not contain any untrue statement of material fact or omit to state a material fact necessary in order to make the statements contained in this Agreement not misleading. There is no fact known to the Company or any of its Subsidiaries that, individually or in the aggregate with other facts known to the Company or such Subsidiary, could reasonably be expected to have a Material Adverse Effect, that has not otherwise been fully set forth in this Agreement, on Schedule 5.21 hereto, or the other Schedules hereto which are a part hereof. Each of the certificates delivered or to be delivered by the Company or any of its officers pursuant to the terms of this Agreement will be true, accurate and complete in all material respects as of the date made.

5.22 Proxies. The Company has delivered to PFPC proxies from all members of management of the Company, the holders of not less than a majority of the outstanding Series C Preferred Stock, the holders of not less than a majority of the outstanding Series B Preferred Stock, and the holders of not less than a majority of the outstanding Series A Preferred Stock, with respect to all of the outstanding Shares of the capital stock of the Company held by such persons, granting to PFPC or its designee the right to vote such Shares in favor of all matter needed to consummate the Merger.

5.23 Commodity Related Representations.

(a) Neither the Company nor any Subsidiary has any investment in any commodity futures contract or other derivative instrument or any commodity pool.

(b) Neither Persimmon Small/Mid Cap Fund nor Persimmon Absolute Return Fund (together, the "Funds"):

(i) has any investment in any commodity futures contract or other derivative instrument or any commodity pool other than solely as a passive investor through an underlying fund;

(ii) controls or may be deemed to "control" for the purposes of the Bank Holding Company Act of 1956, as amended, any commodity pools; or

(iii) is subject to any liability for the debts, contractual obligations or other liabilities of any commodity pool.

ARTICLE 6.
REPRESENTATIONS AND WARRANTIES OF PFPC

PFPC hereby makes the following representation and warranties to the Company:

6.1 Organization, Standing and Authority of PFPC. PFPC is a duly organized corporation, validly existing and in good standing under the laws of the State of Massachusetts, with full corporate power and authority to carry on its business as now conducted.

6.2 Authorized and Effective Agreement.

(a) PFPC has all requisite corporate power and authority to enter into and perform all of its obligations under this Agreement. The execution and delivery of this Agreement by PFPC have been duly and validly authorized by all necessary corporate action in respect thereof on the part of PFPC.

(b) This Agreement constitutes legal, valid and binding obligations of PFPC, enforceable against it in accordance with its terms.

(c) Neither the execution and delivery by PFPC of this Agreement, nor, after PFPC has obtained all regulatory, internal corporate and other approvals deemed necessary or desirable by PFPC, consummation by PFPC or the Merger Sub of the transactions contemplated hereby, nor compliance by PFPC with any of the provisions hereof shall (i) conflict with or result in a breach of any provision of the articles of incorporation or by-laws of PFPC, (ii) constitute or result in a breach of any term, condition or provision of, or constitute a default under, or give rise to any right of termination, cancellation or acceleration with respect to, or result in the creation of any lien, charge or encumbrance upon any property or asset of PFPC pursuant to, any note, bond, mortgage, indenture, license, agreement or other instrument or obligation, or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to PFPC.

(d) No consent, approval or authorization of, or declaration, notice, filing or registration with, any Governmental Authority, or any other Person, is required to be made or obtained by PFPC on or prior to the Closing Date in connection with the execution, delivery and performance of this Agreement by PFPC or the consummation by PFPC and its affiliates of the transactions contemplated hereby other than those that PFPC will use commercially reasonable efforts to obtain from regulators having jurisdiction over it or any of its Affiliates or pertaining to the transactions contemplated by this Agreement and internal corporate approvals deemed necessary or desirable by PFPC.

6.3 Brokers and Finders. Neither PFPC nor any of its respective officers, agents, attorneys, directors or employees, has employed any broker, finder or financial advisor or incurred any liability for any fees or commissions (other than legal and accounting fees) in connection with the transactions contemplated herein.

ARTICLE 7. COVENANTS

From the date of this Agreement until the earlier to occur of the Closing Date or the termination of this Agreement, each party hereto shall comply with the covenants and agreements set forth in this Article 7 applicable to such party, and no party shall enter into any agreement to avoid or that would conflict with such covenants and agreements.

7.1 Cooperation; Consents.

(a) Each of the parties hereto will cooperate with the other parties and use commercially reasonable efforts to take, or cause to be taken, all commercially reasonable action, and to do, or cause to be done, all commercially reasonable things necessary, proper or advisable under applicable laws, regulations, conditions imposed by Governmental Authorities and contractual arrangements to fulfill its obligations hereunder and take each action required of it to consummate and make effective the transactions contemplated by this Agreement.

(b) The Company shall use its best efforts to obtain any consent to be made or obtained by the Company, its Subsidiaries and/or any Stockholder pursuant to Section 8.1 hereof;

provided that the Company shall use commercially reasonable efforts to obtain any vote, consent, ratification or other approval of the Stockholders deemed necessary or desirable by PFPC and which shall be in a form and substance satisfactory to PFPC, including approval of the Merger and execution and delivery by each Stockholder of the Transmittal Letter.

(c) The Company, and its Subsidiaries shall (i) furnish such information as may be required in connection with the preparation of the documents referred to above, and (ii) take or cause to be taken all commercially reasonable action necessary or desirable on its part so as to permit consummation of the transactions contemplated hereby at the earliest possible date, including, without limitation, (A) obtaining the consent or approval of each Person whose consent or approval is required for consummation of the transactions contemplated hereby, provided that the Company and its Subsidiaries shall not agree or be required to agree to make any payments or modifications to agreements in connection therewith without the prior written consent of PFPC, and (B) requesting the delivery of appropriate opinions, consents and letters from its counsel to the extent required herein.

7.2. Books and Records; Access. The Company shall maintain accurate and complete Books and Records. The Company and its Subsidiaries will keep PFPC advised of all material developments relevant to its Business. The Company and its Subsidiaries shall give representatives of PFPC full and free access, during normal business hours, to their personnel and representatives (including, without limitation, its external accountants and auditors), properties, Software, systems, intellectual property, contracts, Books and Records, and all other documents and data, including permission to examine, copy and make abstracts from any of such materials, Books and Records, and such other information as PFPC may from time to time request, and the Company and its Subsidiaries shall make available to PFPC copies of any reports, statements or returns that it may make to or file with any Governmental Authority, all in connection with PFPC's ongoing due diligence process in contemplation of the exercise, if any, of the Option and, if so exercised, thereafter the consummation of the Merger.

7.3 Interim Financial Statements. The Company shall deliver to PFPC within 15 days after the end of each month and quarter its Financial Statements for such period, in reasonable detail, prepared in accordance with GAAP consistently applied from period to period, subject to the omission of notes thereto and normal year-end adjustments.

7.4 Annual Financial Statements. The Company shall deliver annual Financial Statements to PFPC as soon as they are available, but in no event later than 120 days after December 31 of each calendar year, beginning with the calendar year ending December 31, 2002. The Company's annual Financial Statements shall be prepared in accordance with GAAP consistently applied from period to period and audited by an independent certified public accountant selected by the Company and satisfactory to PFPC, accompanied by the unqualified opinion of such independent certified public accountant reasonably satisfactory to PFPC and its examination shall have been made in accordance with GAAP.

7.5 Financial Projections. The Company shall deliver to PFPC projections, forecasts, pro forma financial statements and such other information reasonably requested by PFPC from time to time, which at a minimum shall include monthly and quarterly financial projections for the current year ended December 31, 2002 and quarterly financial projections for each year thereafter.

7.6 Payment of Taxes and Other Charges. The Company and its Subsidiaries shall pay and discharge when due all indebtedness and all Taxes, assessments, charges, levies and other liabilities and Liens imposed upon it, its income, profits, property or business, except those which currently are being contested in good faith by appropriate proceedings and for which the Company or its

Subsidiaries shall set aside adequate reserves in accordance with GAAP or made other adequate provision with respect thereto acceptable to PFPC in its reasonable discretion.

7.7 Maintenance of Existence, Operation and Assets. The Company and its Subsidiaries shall maintain, renew and keep in full force and effect their organizational existence and all rights, permits and franchises necessary to enable them to continue their business, continue in operation in substantially the same manner as at present, keep their properties in good operating condition and repair subject to normal wear and tear; and make all reasonably necessary and proper repairs, renewals, replacements, additions and improvements thereto.

7.8 Insurance. The Company and its Subsidiaries shall maintain with financially sound and reputable insurers, as reasonably determined in good faith by the Company, insurance with respect to its property and business against such casualties and contingencies, of such types and in such amounts as is customary for established companies engaged in the same or similar business and similarly situated and shall deliver to PFPC at least once each year evidence of insurance in form satisfactory to PFPC; provided that such coverage shall not be less than is carried by the Company on the date hereof.

7.9 Compliance with Laws. The Company and its Subsidiaries shall comply in all material respects (and, with respect to investment advisory services, in all respects) with all Laws applicable to them and to the operation of their Business (including, without limitation, any statute, rule or regulation relating to investment advisory services, employment practices and pension benefits or to environmental, occupational and health standards and controls) and maintain all Plans such that the representations set forth in Section 5.15 hereof remain true and correct in all respects.

7.10 Additional Reports. The Company shall deliver written notice to PFPC promptly after receiving notice or knowledge of the occurrence of any of the following, together with a description of the action that the Company and its Subsidiaries is taking or proposes to take with respect thereto: (a) any default under any agreement to which it is a party or by which its properties may be bound, including, without limitation, this Agreement, (b) any litigation filed by or against the Company or any of its Subsidiaries expressly claiming or asserting damages in excess of \$50,000, (c) any 'Reportable Event' or 'Prohibited Transaction' with respect to any Plan(s) (as defined in ERISA); and (d) any event that could be expected to have a Material Adverse Effect.

7.11 Board Materials; Observer Rights. The Company shall deliver to PFPC copies of all meeting notices, reports and other materials provided by management of the Company to its Board of Directors at the same time such meeting notices, reports and other materials are delivered to its Board. In addition, prior to the Option Exercise Date, PFPC shall be entitled to attend all meetings of the Board of Directors of the Company for the purpose of observing such meetings in their entirety, and after the Option Exercise Date, PFPC shall, in addition, be entitled to attend all executive sessions of the Board of Directors or similar purposes. The Board of Directors shall limit all business conducted in executive session to that which is properly conducted in executive session.

7.12 Indebtedness; Liens; Guarantees; Loans. None of the Company or any of its Subsidiaries shall incur or suffer to exist any indebtedness for borrowed money other than: (a) to PFPC or any Affiliates thereof; (b) unsecured indebtedness incurred with the prior written consent of PFPC, in its discretion; and (c) purchase money indebtedness and liens relating to purchases of equipment and machinery in the ordinary course of the Company's business, provided that such indebtedness does not exceed the purchase price of such equipment or machinery and only relates to such purchases; and further provided that the permitted indebtedness referred to in clauses (b) and (c) does not exceed \$ 100,000 in the aggregate. None of the Company or any of its Subsidiaries shall create, assume or permit to exist any Lien upon any property or assets now owned or hereafter acquired by it or enter into any lease or any

arrangement for the acquisition of property subject to any conditional sales agreement, other than security interests granted in connection with indebtedness permitted under this Agreement or in favor of PFPC. None of the Company or any of its Subsidiaries shall guarantee, become surety for, endorse, or become contingently liable for the obligations of any Person. None of the Company or any of its Subsidiaries shall purchase or hold beneficially any stock, other securities or evidences of indebtedness of, or make any investment or acquire any Equity Interest whatsoever in, any other Person, including the establishment or creation of a subsidiary.

7.13 Change in Business, Joint Ventures; Transfer of Assets; Constituent

Documents.

(a) None of the Company or any of its Subsidiaries shall (i) make, suffer or permit any change (including the creation of subsidiaries or formation of new funds) in the nature of its Business; (ii) make any change in the composition of its current executive management without the prior written consent of PFPC which consent shall not be unreasonably withheld; provided that any such change resulting from the death, disability or voluntary resignation of any person currently included in executive management shall not be deemed to violate this Section 7.13(a)(ii) so long as a replacement for such person, reasonably acceptable to PFPC, has been obtained as soon as practicable; or (iii) issue any capital stock or other Equity Interests of any kind other than (x) stock issued as a result of the conversion of convertible debt or equity securities outstanding on the date hereof, and (y) stock issued under certain executive plans, in form and substance satisfactory to PFPC, not to exceed 595,657 shares in the aggregate.

(b) None of the Company or any of its Subsidiaries shall (i) form or enter into any joint venture, partnership, or alliance with any Person, or create any new subsidiaries or funds, or (ii) except in the ordinary course consistent with past practice, lease, sell, transfer or otherwise dispose of all or any portion of its property, assets and business whether now owned or hereafter acquired.

(c) None of the Company or any of its Subsidiaries shall permit or suffer to occur any change to, modification, amendment or alteration of any Constituent Document (including, without limitation, Article V of the Persimmon Research Partners, Inc. dba ADVISORport Second Amended and Restated Shareholders Agreement dated on or about the date hereof) and, except as otherwise expressly permitted or contemplated by this Agreement, or with the prior written consent of PFPC which consent shall not be unreasonably withheld, none of the Company or any of its Subsidiaries shall enter into any agreement, contract, arrangement, commitment or understanding relating to any Shares of the Company or the governance of the Company.

(d) The Company covenants that it shall not engage in any activity that is not permitted for a Bank Holding Company under the provisions of the Bank Holding Company Act, as amended.

7.14 Distributions; Compensation. The Company shall not declare or pay any dividend on or make any distribution with respect to any class of its equity or other Equity Interests, or purchase, redeem, retire or otherwise acquire any of any class of its equity or other Equity Interests. None of the Company or any of its Subsidiaries shall increase the salary, benefits or other compensation or pay bonuses (i) to any employee at the executive level; and (ii) to any employee below the executive level except in the ordinary course of business consistent with past practices. None of the Company or any of its Subsidiaries shall enter into any employment agreement with any new or existing employee or amend any existing employment agreement.

7.15 Intellectual Property Rights. None of the Company or any of its Subsidiaries shall directly or indirectly sell, transfer, assign or otherwise dispose of or grant to any Person any right in or to or a Lien on or otherwise encumber any of the Company's or any of its Subsidiaries' present and future right, title and interest in and to: (a) any Company Intellectual Property Rights, now or hereafter existing, (b) the registration of any Company Intellectual Property Rights, (c) the right to sue for past, present and future infringements of any Company Intellectual Property Rights, (d) the proceeds of any Company Intellectual Property Rights, including without limitation, license royalties and proceeds of infringement suits, or (e) the goodwill associated with the Company Intellectual Property Rights provided, however, that nothing herein shall restrict or prohibit the Company from granting non-exclusive licenses of any Company Intellectual Property Rights in the ordinary course of its business to its clients that are not for the purpose of granting security. None of the Company or any of its Subsidiaries shall enter into any agreement, covenant or undertaking with any Person the terms of which would restrict or prohibit the Company or any of its Subsidiaries from, or would be violated upon, granting or assigning for security to PFPC a lien or security interest in or otherwise encumbering in favor of PFPC or assigning outright to PFPC any Company Intellectual Property Rights or other rights and benefits described in the preceding sentence. None of the Company or any of its Subsidiaries shall abandon any material Company Intellectual Property Rights registration without the prior written consent of PFPC. The Company and each of its Subsidiaries shall maintain the Company Intellectual Property Rights in full force and effect except for Intellectual Property Rights that expire automatically upon completion of their terms or as otherwise provided in the immediately preceding sentence. Upon request of PFPC from time to time, the Company shall deliver to PFPC a description of all Company Intellectual Property Rights existing at such time. The Company shall provide to PFPC status reports, updates, and other information reasonably requested by PFPC regarding the Company's and its Subsidiaries' software, systems and intellectual property, including, but not limited to, information regarding the development or creation of the Company's and its Subsidiaries' software, systems and intellectual property. Upon PFPC's request, the Company shall (at its expense), cause a third party consultant approved by PFPC to complete a full and comprehensive review and analysis of the Company's third party Software license and usage, the Company Software and other Intellectual Property Rights used by the Company in the conduct of the Business. The Company shall promptly provide the results of such review and analysis to PFPC, which shall be reasonably satisfactory to PFPC in form and substance.

7.16 Employees.

(a) On the Closing Date, the Company shall deliver to PFPC a schedule setting forth the information provided in Schedule 5.15(m) updated as of the Closing Date.

(b) Prior to the Closing Date, the Company shall take all actions that may be reasonably requested by PFPC in writing with respect to (i) causing one or more Plans to terminate as of the Closing Date or to cease benefit accrual, and entitlements under any Plan as of the Closing Date, (ii) causing the continuation on and after the Closing Date of any contract, arrangement, or insurance policy relating to any Plan for such period as may be requested by PFPC, or (iii) facilitating the merger of any Plan into any PFPC Benefit Plan; provided that neither PFPC nor the Company will modify or terminate the Company's current health plan for a period of two years following the consummation of the Merger.

(c) The Company and PFPC shall take such further action (before, on, or after the Closing Date), if any, as may be necessary or convenient to implement the intent of PFPC's and the Company's covenants contained in this Section 7.16.

7.17 Accession of Merger Sub. As a condition to PFPC's exercising the Option, PFPC shall have formed the Merger Sub and caused the Merger Sub, once formed, to become a party to this Agreement by executing an appropriate instrument of accession or joinder.

7.18 Certain Assignments; Other Actions. The Company and each its Affiliates shall cooperate in all respects and timely provide to PFPC all information, data, material, analyses, responses to due diligence requests, reports, agreements, and other material of any kind in order to enable PFPC to complete its due diligence investigation and analysis of the Company, its Subsidiaries, and their respective business, operations, assets, financial and other conditions and prospects. During the period beginning on the date of this Agreement up to and including the Closing Date the Company shall use commercially reasonable efforts to take all actions reasonably requested by PFPC in order to address any corporate, operational, or other issues pertaining the Company, its Subsidiaries, and their respective business, operations, assets, financial and other conditions and prospects. If, as of the Closing Date, the Company does not own all right, title and interest to the work product prepared for the Company pursuant to contracts, agreements, licenses or other instruments described in Schedule 5.13(g) relating to Software set forth in Schedule 5.13(c), the Company shall use its best efforts to secure as soon as practicable written assignments or other tangible forms of transfer or conveyance of such right, title and interest in and to such work product.

ARTICLE 8. CONDITIONS PRECEDENT

8.1 Conditions Precedent - All Parties. The respective obligations of the parties hereto (which obligations on the part of PFPC shall not arise until PFPC has sent the Option Exercise Notice) to effect the transactions contemplated hereby shall be subject to satisfaction or waiver of the following conditions at or prior to the Closing Date:

(a) The parties hereto shall have received all regulatory approvals required in connection with the transactions contemplated by this Agreement, all notice periods and waiting periods required after the granting of any such approvals shall have passed and all conditions contained in any such approval required to have been satisfied prior to consummation of such transactions shall have been satisfied and PFPC shall have obtained all internal corporate approvals deemed necessary or desirable by PFPC; provided, however, that no such approval shall have imposed any condition or requirement that, in the opinion of PFPC, materially and adversely affects the anticipated economic and business benefits to PFPC of the transactions contemplated by this Agreement;

(b) None of the parties hereto shall be subject to any order, decree or injunction of a court or agency of competent jurisdiction which enjoins or prohibits the consummation of the transactions contemplated by this Agreement, other than any such order, decree or injunction obtained by a party hereto or any Stockholders;

(c) PFPC shall have received approval of the Board of Governors of the Federal Reserve System, the National Association of Securities Dealers, and any other Governmental Authority PFPC deems necessary or desirable to consummate the transactions contemplated hereby, and PFPC shall have obtained all internal corporate approvals deemed necessary or desirable by PFPC; and

(d) Any additional written consents contemplated by Section 5.5 of this Agreement shall have been received.

8.2 Conditions Precedent - Company. The obligations of the Company to effect the transactions contemplated hereby shall be subject to satisfaction of the following additional conditions at or prior to the Closing Date unless waived by the Company:

(a) The representations and warranties of PFPC set forth in Article 6 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing

Date as though made on and as of the Closing Date (or on the date when made in the case of any representation and warranty which specifically relates to an earlier date), except (i) as otherwise contemplated by this Agreement, (ii) to the extent any change therein is the result of any action not prohibited, or to the extent not violative, individually or in the aggregate, of any qualification, limitation, or restriction in this Agreement, and revised disclosure schedules reflecting such changes have been provided to the Company, or (iii) as consented to in writing by the Company;

(b) PFPC shall have (i) delivered, as applicable, all funds, instruments and documents required by Section 4.2(b); and (ii) performed in all material respects all other obligations and complied with all covenants required by this Agreement to be performed or complied with by PFPC on or before the Closing Date; and

(c) The Company shall have received the opinion of counsel to PFPC referenced in Section 4.2(b).

8.3 Conditions Precedent – PFPC. The obligations of PFPC to effect the transactions contemplated hereby (which obligations on the part of PFPC shall not arise until PFPC has sent the Option Exercise Notice) shall be subject to satisfaction of the following additional conditions at or prior to the Closing Date unless waived by PFPC:

(a) The representations and warranties of the Company and its Subsidiaries set forth in Article 5 hereof and in the Services Agreement and Escrow Agreement shall be true, correct and complete (i) as of the date of this Agreement, and (ii) as of the Closing Date as though remade on and as of the Closing Date (or on the date when made in the case of the representation and warranty made pursuant to Section 5.6), except (i) as otherwise contemplated by this Agreement, (ii) to the extent any change therein is the result of action not prohibited, or to the extent not violative, individually or in the aggregate, of any qualification, limitation, or restriction in this Agreement, and revised disclosure schedules reflecting such changes have been provided to PFPC in accordance with Section 8.3(e) hereof, or (iii) as consented to in writing by PFPC;

(b) The Persimmon Absolute Return Fund and, to the extent any Governmental Authority having authority over PFPC, its assets or operations so requires due to the nature of the holdings thereof, Persimmon Small/MidCap Fund, shall have amended their prospectuses or private placement memoranda, as applicable, and any other applicable governing documents and given all required notices and made all required filings, so that the Funds shall be restricted from offering interests in the Funds to not more than four times per year, effective before or on the Closing Date;

(c) The Company shall have (i) delivered, as applicable, all certificates, instruments and documents required by Section 4.2(a); and (ii) and shall have performed, in all material respects, all other obligations and complied with all covenants required by this Agreement to be performed or complied with by the Company and its Subsidiaries on or before the Closing Date;

(d) Approval of the Merger by the Requisite Voting Power and execution by the Requisite Voting Power of the Transmittal Letters;

(e) PFPC shall have received the opinion of counsel to the Company referred to Section 4.2(a);

(f) At least three (3) Business Days before the Closing Date, the Company shall have delivered to PFPC a true, correct and complete update of the Schedules to this Agreement and shall provide PFPC with any and all information necessary to make any other representation or warranty

contained in this Agreement true, correct and complete as of the Closing Date; provided, however, that (i) the updating of representations or warranties shall not cure any breach of the representations or warranties other than to the extent any change reflected therein is (x) the result of any action not prohibited by this Agreement, and (y) not violative, individually or in the aggregate, of any qualification, limitation, or restriction in this Agreement, and (ii) the representations or warranties, as so updated, shall not reflect any material adverse change to any representation or warranty as originally made on the date of this Agreement;

(g) The Company shall have entered into an Advisory Agreement with each of the Customers identified by PFPC on Schedule 8.3(f);

(h) Persimmon Capital Management LP and Persimmon Partners LTD shall have entered into a side letter with PFPC wherein Persimmon Capital Management LP and Persimmon Partners LTD shall agree (i) not to use in the future the name "Advisorport" or any confusingly similar name, and (ii) to cease using of the name "Advisorport" (and all confusingly similar names) in connection with the businesses of Persimmon Capital Management LP and Persimmon Partners LTD, including all marketing and other materials, except to the limited extent that Persimmon Capital Management LP or Persimmon Partners LTD is referring to the use of the Persimmon Services (as defined in the Services Agreement); and

(i) The Company shall have taken all action required by PFPC (including those required by the staffs of the Board of Governors of the Federal Reserve System (the "Board") and the Federal Reserve Bank of Cleveland (the "Federal Reserve Bank")) to ensure that the relationships between PFPC and the Funds shall conform to the requirements of the Bank Holding Company Act of 1956, as amended, in each case, in a manner acceptable to the Board and the Federal Reserve Bank; it being acknowledged and agreed that certain of such acts may be completed after the Closing, but in no event later than the second anniversary of the date of this Agreement.

ARTICLE 9: TERMINATION, WAIVER AND AMENDMENT

9.1 Termination. This Agreement shall terminate upon the expiration of the Option Period, and may be terminated:

(a) At any time prior to the Closing Date, by the mutual consent in writing of PFPC and the Company; or

(b) At any time prior to the Closing Date, by PFPC in writing, if the Company or any of its Subsidiaries has, or by the Company in writing, if PFPC has, in any material respect, breached (i) any covenant or agreement contained herein or (ii) any representation or warranty contained herein, and in either case if such breach has not been cured by the date 30 days after the date on which written notice of such breach is given to the party committing such breach.

9.2 Effect of Termination. If this Agreement is terminated pursuant to Section 9.1 hereof, this Agreement shall become void and have no effect, except that (i) the provisions of Article 10 and Article 11 hereof shall survive any such termination, and (ii) a termination pursuant to Section 9.1(b) shall not relieve the breaching party from liability for an uncured willful breach of any covenant or agreement contained herein that has the effect of precluding, in PFPC's reasonable judgment, PFPC's ability to exercise the Option or consummate the Merger.

**ARTICLE 10.
INDEMNITY**

10.1 Stockholder Indemnity.

(a) Subject to the limitations set forth in Section 10.5 hereof, including the limitation on personal liability contained therein, each Stockholder, by virtue of the provision of this Article 10 and solely for the purpose of according to PFPC the right, ability and entitlement to effect its rights of withholding and Set Off pursuant to Sections 3.7(a)(iii), 3.8(c) and 3.8(d) of this Agreement, shall indemnify, save and hold PFPC (and the Company, after the Closing Date) and their respective Affiliates and their respective directors, officers, employees, and agents (the "PFPC Indemnified Parties") harmless from and against, and compensate them for, any and all Losses received, incurred or sustained by the PFPC Indemnified Parties, or any of them, which shall arise out of or result from any breach of any representation, warranty or covenant of any of the Company or any of its Subsidiaries under this Agreement, provided that PFPC shall be entitled to calculate all Losses in respect of the Stockholders' indemnity and hold harmless obligations on an aggregate basis, without (i) considering the ultimate timing or amount of any distribution of the Merger Consideration to any individual Stockholder, and, accordingly, for such purposes the Stockholders shall be deemed to be jointly and severally liable to the PFPC Indemnified Parties, or (ii) showing, determining or proving, in any manner whatsoever, the responsibility or culpability of any individual Stockholder with respect to such Loss.

(b) (i) In addition to the indemnification provided in Section 10.1(a), each Stockholder solely for the purpose of according to PFPC the right, ability and entitlement to effect its rights of withholding and Set Off pursuant to Sections 3.7(a)(iii), 3.8(c) and 3.8(d) of this Agreement, shall indemnify, save and hold the PFPC Indemnified Parties harmless from and against, and compensate them for, any and all Taxes, and Other Tax Costs related thereto (other than those which have been properly reflected on the Company's periodic Financial Statements, provided that (x) amounts required to be segregated in accordance with Section 5.14(g) shall have been properly segregated, and (y) any other amounts for such Taxes and Other Tax Costs do not exceed \$20,000 in the aggregate), with respect to which the Company, its Subsidiaries, any Stockholder or any entity or successor to any such entity may be liable to the extent such Taxes (A) are attributable to, accruing during or otherwise allocable to the Company, its Subsidiaries or a Stockholder (as a result of ownership of any Shares) with respect to (1) any taxable period ending on or prior to the Closing Date, and (2) that portion of any Split Period that is prior to and including the Closing Date, or (B) arise as a result of the Merger contemplated by this Agreement, provided that PFPC shall be entitled to calculate all Losses in respect of the Stockholders' indemnity and hold harmless obligations on an aggregate basis, without (1) considering the distribution of the Merger Consideration to any individual Stockholder, and, accordingly, for such purposes the Stockholders shall be deemed to be jointly and severally liable to the PFPC Indemnified Parties, or (2) showing, determining or proving, in any manner whatsoever, the responsibility or culpability of any individual Stockholder with respect to such Loss.

(ii) For purposes of this Section 10.1(b): (A) In the case of any income Taxes that are payable with respect to a Split Period, the portion of such Taxes allocable to the portion of the Split Period ending on the Closing Date shall be determined on the basis of a deemed closing on the Closing Date of the Books and Records of the Company as of the close of business on the Closing Date. (B) In the case of any Taxes (other than income Taxes that are payable with respect to a Split Period), the portion of such Taxes allocable to the portion of the Split Period ending on the Closing Date shall be equal to the product of the total Taxes for the Split Period multiplied by a fraction the numerator of which is the number of days in the Split Period from the commencement of the Split Period through and including the Closing Date and the denominator of which is the number of days in the entire Split Period; provided, however, that appropriate adjustments shall be made to reflect specific events or

items of income that can be identified and specifically allocated as occurring on or prior to the Closing Date (in which case the Stockholders shall be responsible for any Taxes related thereto).

(iii) (A) Each Stockholder shall pay any Taxes that are or should be shown as due and owing by such Stockholder as a result of the ownership by such Stockholder of Shares, as shown on any and all Tax Returns relating to Taxes due and owing by any such Stockholder as a result of his, her or its ownership of Shares, and (B) the Company shall pay any Taxes shown on any and all other Tax Returns to the extent such Tax Returns are required to be filed by or on behalf of the Company relating to any period that ends on or prior to the Closing Date and the amount shown thereon exceeds the amount set forth in Section 10.1(b)(i)(y) or the funds segregated therefor with respect to Section 10.1(b)(i)(x).

(iv) Notwithstanding any other provisions of this Agreement, the covenants, promises, indemnifications and other obligations of the parties hereto set forth in Section 10.1(b) shall survive the Closing until 120 days after the expiration of any applicable statute of limitations relating to the Taxes covered thereby.

(c) Notwithstanding anything in this Article 10 to the contrary, PFPC shall have all rights and remedies available at law and in equity, without any limitation whatsoever, as against any individual or entity who or which PFPC claims in good faith has committed any act of fraud or engaged in any criminal conduct (collectively, "Unlimited Claims"), with respect to claims arising from such fraud or criminal conduct.

10.2 **PFPC Indemnity.** PFPC shall indemnify, save and hold the Company harmless from and against, and compensate it for, any and all Losses received, incurred or sustained by the Company which shall arise out of or result from any breach of any representation, warranty or covenant of PFPC under this Agreement.

10.3 **Survival of Representations, Warranties and Covenants.** Except as otherwise provided herein, and except for the representations and warranties set forth in Sections 5.14 and 5.15 (which shall survive indefinitely), the representations and warranties set forth in this Agreement shall survive the Closing Date for a period of three (3) years following the Closing Date.

10.4 **Procedure for Indemnification.**

(a) In any case where PFPC shall seek indemnification pursuant to Section 10.1, PFPC shall be entitled to those rights of Set Off as set forth in Section 3.7(a)(iii), 3.8(c) and 3.8(d).

(b) In any case where any Person shall seek indemnification (the "Indemnified Party") under this Agreement for an Unlimited Claim in respect of a third party claim, suit or proceeding ("Third Party Claim"), such indemnification shall be conditioned on such Indemnified Party's compliance with the following procedures:

(i) The Indemnified Party shall give written notice (prior to the expiration of any applicable survival period as set forth herein) to the party from whom such indemnification is sought (the "Indemnifying Party") of each claim for indemnification under this Agreement, specifying the amount and nature of the claim (a "Notice"). Provided that such Notice is given (unless the failure to provide such Notice does not prejudice the interests of the Indemnifying Party), the Indemnifying Party, at its own expense and using counsel of its own choosing, reasonably satisfactory to the Indemnified Party (which, in the case of the Stockholders, shall be deemed to be the

Stockholders' Representative), shall promptly defend, contest and otherwise protect against any such claim, suit or proceeding.

(ii) The Indemnified Party may, but shall not be obligated to, participate in the defense of any such Third Party Claim, suit or proceeding, at its own expense and using counsel of its own choosing, but the Indemnifying Party shall be entitled to control the defense thereof unless the Indemnified Party has relieved the Indemnifying Party from liability with respect to the particular matter. The Indemnified Party shall cooperate and provide such assistance as the Indemnifying Party reasonably may request in connection with the Indemnifying Party's defense and shall be entitled to recover from the Indemnifying Party the reasonable out-of-pocket costs of providing such assistance. The Indemnifying Party shall inform the Indemnified Party on a regular basis of the status of such claim, suit or proceeding and the Indemnifying Party's defense thereof.

(iii) The Indemnifying Party shall not, without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned), compromise or settle any Third Party Claim, if: (i) such compromise or settlement would impose an injunction or other equitable relief upon the Indemnified Party; or (ii) such compromise or settlement does not include the third party's release of the Indemnified Party from all liability relating to such claim, suit or proceeding for which the Indemnified Party is entitled to be indemnified.

(iv) Notwithstanding the foregoing, if an Indemnified Party determines in good faith that there is a reasonable probability that a Third Party Claim may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification (and Set Off) under this Agreement, the Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise or settle such Third Party Claim; provided that the Indemnified Party shall not consent to any judgment or enter any settlement with respect to the Third Party Claim without the prior written consent of the Indemnifying Person (such consent not to be unreasonably withheld, delayed or conditioned) unless such consent to judgment or settlement relates to any Third Party Claim by a Governmental Authority, in which case the Indemnifying Party's consent shall not be required.

(v) If after receipt of Notice the Indemnifying Party fails to timely defend, contest or otherwise protect against any such claim, suit or proceeding, and fails after receipt of Notice to contest in writing the Indemnified Party's right to indemnification, the Indemnified Party may, but will not be obligated to, defend, contest or otherwise protect against the same, and make any compromise or settlement thereof and recover the entire costs thereof from the Indemnifying Party to which the Indemnified Party is entitled under this Article 10, including reasonable fees and disbursements of counsel and all amounts paid as a result of such claim, suit or proceeding and the compromise or settlement thereof in each case to the extent the Indemnified Party is entitled to be indemnified under this Article 10.

10.5 Limitation on Liability.

(a) The Stockholders shall not be obligated to indemnify the PFPC Indemnified Parties for any Losses pursuant to Section 10.1(a) unless and until the total of all Losses exceeds \$100,000 in the aggregate and then only for the amount by which such Losses exceed such amount; provided, however, that any materiality qualifier contained in any representations and warranty shall be disregarded when determining Losses for purposes of the foregoing.

(b) Other than in respect of (x) Unlimited Claims and claims arising out of intentional misrepresentation or willful misconduct (in which case PFPC shall have all remedies available

at law or in equity) or (y) claims arising out of Section 10.1(b), any and all claims for Losses made pursuant to Section 10.1(a) of this Agreement or for breaches of the representations and warranties and covenants made by the Company herein shall be limited to (A) in the case of the Initial Payment, the aggregate sum of \$1,250,000, and (B) in the case of the Earn Out the aggregate sum of \$8,000,000.

(c) In no event shall the Stockholders' Representative have any liability to the Company, the Stockholders or any other party for any of its acts or omissions in the course of its acting as such, except to the extent that such any such acts or omissions constituted gross negligence, willful misconduct or intentional breach of any requirement under this Agreement.

(d) In no event shall any Stockholder have any personal liability to the Surviving Corporation, PFPC or its Affiliates pursuant to this Article 10 or any other provision of this Agreement, and no PFPC Indemnified Parties shall have personal recourse against any Stockholder for any claims for Indemnified Losses made pursuant to this Article 10 or any other provision of this Agreement or for breaches of the representations and warranties or covenants made by the Company in this Agreement but shall look solely to its rights of Set Off provided for pursuant to Sections 3.7(a)(iii), 3.8(c) and 3.8(d) hereof, other than in respect of the Unlimited Claims arising from such Stockholder's own acts.

10.6 No Contribution by the Surviving Corporation or any Subsidiary. Neither the Surviving Corporation nor any Subsidiary thereof will have any liability to any Indemnifying Party as a result of any misrepresentation or breach of representation or warranty contained in this Agreement or any certificate, schedule, instrument, agreement or other writing delivered by or on behalf of, or in respect of, Company or any Subsidiary thereof pursuant to this Agreement or in connection with the transactions contemplated this Agreement, or the breach of any covenant or agreement of Company contained in this Agreement or any certificate, schedule, instrument, agreement or other writing by or on behalf of, or in respect of, Company or any Subsidiary thereof pursuant to the terms of this Agreement or in connection with the transactions contemplated by this Agreement. No Indemnifying Party will have any right of indemnification or contribution against the Surviving Corporation or any Subsidiary thereof on account of any event or condition occurring or existing (x) prior to or on the date hereof or (y) on or before the Closing Date.

10.7 Exclusive Remedy. Except for the rights and remedies with respect to any Unlimited Claims and the obligations of each Stockholder, severally and not jointly, pursuant to Section 10.1(b)(iii)(A), the indemnification and rights of Set Off provided pursuant to Article 3 and this Article 10 shall be the sole and exclusive remedy of the PFPC Indemnified Parties against the Stockholders for any claims arising out of, related to or in connection with this Agreement and the transactions contemplated hereby.

10.8 PFPC Parties. For Purposes of this Article 10, any references to PFPC shall mean PFPC and its Affiliates, including the Merger Sub.

10.9 Stockholders' Representative. The Stockholders' Representative, and each member thereof, shall have full power and authority on behalf of each Stockholder to take any and all actions on behalf of, execute any and all instruments on behalf of, and execute or waive any and all rights of, the Stockholder under this Article 10, it being understood that PFPC shall be entitled to rely on an action taken by any one of the members of the Stockholders' Representative. Except with respect to the administrative functions required to be performed by the Stockholders' Representative hereunder, the Stockholders' Representative is not subject to or the beneficiary of the obligations, rights or remedies of the Stockholders for purposes of this Article 10.

**ARTICLE 11.
MISCELLANEOUS**

11.1 Power of Attorney.

(a) Appointment and Powers. The Company hereby irrevocably constitutes and appoints PFPC and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Company or in PFPC's own name, which powers may be exercised by PFPC only following PFPC's exercise of the Option and only for the purpose of carrying out the provisions of Sections 4.2 and 4.3 of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of the provision of Sections 4.2 and 4.3 of this Agreement, but PFPC shall not exercise such powers prior to its making a written request of the Company to take any action with respect to Sections 4.2 and 4.3 and the Company has failed to take such action within three (3) Business Days of such request. Without limiting the generality of the foregoing, the Company hereby grants said attorneys the power and right, on its behalf, without notice to or assent by the Company and at the sole expense of the Company, to execute those certain Advisory Agreements referred to in Section 8.3(f), all at the sole cost and expense of the Stockholders.

(b) Ratification by Company. To the extent permitted by law, the Company hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

(c) No Duty on PFPC. The powers conferred on PFPC hereunder are solely to protect its interests in effecting a timely completion of the Merger and shall not impose any duty upon it to exercise any such powers.

11.2 Expenses. Except as otherwise provided in Article 10 and elsewhere in this Agreement, each party hereto, including the Stockholders' Representative, shall bear and pay all costs and expenses incurred by it in connection with the transactions contemplated in this Agreement, including fees and expenses of its own financial consultants, accountants and counsel.

11.3 Entire Agreement. This Agreement and the Schedules contain the entire agreement between the parties with respect to the transactions contemplated hereunder and supersede all prior arrangements or understandings with respect thereto, written or oral, other than documents referred to herein. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors.

11.4 Waiver. Each of PFPC and the Company may at any time extend the time for the performance of any of the obligations or other acts of the other party, and may waive (i) any inaccuracies of such parties in the representations or warranties contained in this Agreement, or any document delivered pursuant hereto, (ii) compliance with any of the covenants, undertakings or agreements of such parties, or satisfaction of any of the conditions precedent to its obligations, contained herein, or (iii) the performance by such parties of any of its obligations set out herein. The failure or delay of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

11.5 Amendment or Supplement. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by each of PFPC and the Company.

11.6 Assignment. No party hereto may assign any of its rights or obligations under this Agreement to any other Person without the prior written consent of the other parties hereto, except that the rights of PFPC hereunder may be assigned, without the consent of the Company, to (a) the Merger Sub, provided that PFPC shall not be released of its obligations hereunder, and (b) any Affiliate of The PNC Financial Services Group, Inc., provided that (i) such assignee has and is reasonably expected to have the financial capacity and resources necessary to perform its obligations under this Agreement, and (ii) such assignee shall assume in writing all of PFPC's obligations hereunder, in which case PFPC shall be released of its obligations hereunder.

11.7 Notices. All notices or other communications which are required or permitted hereunder shall be in writing and sufficient if delivered personally or sent by facsimile transmission or overnight express or by registered or certified mail, postage prepaid, addressed as follows:

If to the Company:

620 West Germantown Pike
Suite 270
Plymouth Meeting, PA 19462
Attention: Chief Executive Officer
Facsimile No.: 610.834.9399

If to the Pre-Merger Stockholders:

c/o Newhouse Special Situations Fund I, LLC
Two East Avenue, Suite 201
Larchmont, NY 10538
Attention: Brian W. Cooke
Facsimile No.: 914.833.7774

If to the Stockholders (for purposes of Article 10 hereof)

c/o Newhouse Special Situations Fund I, LLC
Two East Avenue, Suite 201
Larchmont, NY 10538
Attention: Brian W. Cooke
Facsimile No.: 914.833.7774

with a copy to:

Wolf, Block, Schorr and Solis Cohen LLP
1650 Arch Street
22d Floor
Philadelphia, PA 19103-2097
Attention: Michael M. Sherman
Facsimile No.: 215.977.2236

If to PFPC:

400 Bellevue Parkway
Wilmington, Delaware 19809
Attention: General Counsel
Facsimile No.: 302.791.1191

with a copy to:

Pepper Hamilton LLP
3000 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19193-2799
Attention: Lisa R. Jacobs
Facsimile No.: 215.981.4750

Any party may change the persons to receive notice on its or their behalf and the address to which such notice shall be sent from time to time by means of a writing delivered in accordance with this Section 11.7.

11.8 Interpretation. In this Agreement, unless PFPC and the Company otherwise agree in writing, the singular includes the plural and the plural the singular; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or," the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections), schedules or exhibits are to those of this Agreement unless otherwise indicated; and references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by or are entered into in accordance with the terms of this Agreement. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose. Unless otherwise specified in this Agreement, all accounting terms shall be interpreted and all accounting determinations shall be made in accordance with GAAP.

11.9 Public Disclosures. Except as may be deemed necessary or desirable by PFPC to comply with applicable law, the rules or regulations of any stock exchange or with respect to any federal or state regulator, no press release or other publicly available document or disclosure related to this Agreement or the transactions contemplated hereby shall be made public without the prior written consent of PFPC and the Company (if before the Effective Time) or the Stockholders' Representative (if after the Effective Time).

11.10 Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11.11 Severability. Whenever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

11.12 No Third Party Beneficiaries. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any Person other than the parties hereto and, with respect to Indemnified Parties, pursuant to Article 10, any right, remedy or claim under or by reason of this Agreement.

11.13 Governing Law; Forum; Specific Performance.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its principles of conflicts of laws.

(b) The parties hereby irrevocably and unconditionally submit to the jurisdiction of any appropriate Delaware State court sitting in Wilmington, Delaware, and any appellate court from any such court, in any action or proceeding arising out of or relating to this agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that, to the extent permitted by applicable law, all claims in respect of any such action or proceeding may be heard and determined in such court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The parties hereby irrevocably and unconditionally waive, to the fullest extent they may legally and effectively do so, any objection that they may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in such court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such court.

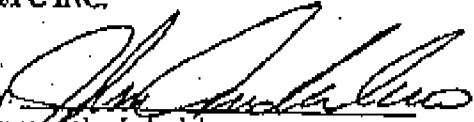
(c) Company acknowledges and understands that money damages would not be a sufficient remedy for breach of its agreements, covenants and other obligations under this Agreement. Accordingly, in addition to all other remedies that PFPC may have, PFPC shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any breach of such agreements, covenants and other obligations under this Agreement, and will waive any requirement for a bond in connection with any such injunctive or other equitable relief upon the request of PFPC.

11.14 Waiver Of Jury Trial. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS AGREEMENT AND ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE PARTIES HEREBY ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Agreement to be executed in counterparts, by their duly authorized officers or representatives other than in the case of natural persons, all as of the day and year first above written.

PEPC INC.

By: 
Name: John J. Andoloro
Title: Executive Vice President

PERSIMMON RESEARCH PARTNERS, INC.

By: _____
Name: Gregory S. Horn
Title: Chairman & CEO

PERSIMMON STOCKHOLDERS COMMITTEE

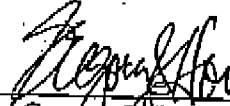
By: _____
Name: Gregory S. Horn
Title: Authorized Representative

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Agreement to be executed in counterparts, by their duly authorized officers or representatives other than in the case of natural persons, all as of the day and year first above written.

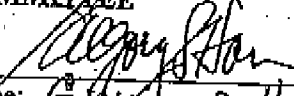
PFPC INC.

By: _____
Name: John J. Andaloro
Title: Executive Vice President

PERSIMMON RESEARCH PARTNERS, INC.

By:  _____
Name: Gregory S. Horn
Title: Chairman & CEO

PERSIMMON STOCKHOLDERS COMMITTEE

By:  _____
Name: Gregory S. Horn
Title: Member