Exhibit B-1

Agreement and Plan of Reorganization dated as of December 29, 2006, by and among Cisco, Ibiza Sub, Eivissa Sub and IronPort

AGREEMENT AND PLAN OF REORGANIZATION

BY AND AMONG

CISCO SYSTEMS, INC.,

IBIZA ACQUISITION CORP.,

EIVISSA ACQUISITION CORP.

AND

IRONPORT SYSTEMS, INC.

DECEMBER 29, 2006

EXHIBITS

Exhibit A-1	-	List of Signatories to Company Voting Agreement
Exhibit A-2	-	Form of Company Voting Agreement
Exhibit B-1	-	Form of Certificate of Merger for First Merger
Exhibit B-2	-	Form of Certificate of Merger for Second Merger
Exhibit C	-	Form of Escrow Agreement
Exhibit D	-	Form of Company Legal Opinion
Exhibit E	-	Form of Benefits Waiver
Exhibit F	-	Form of Parachute Payment Waiver
Exhibit G	-	Form of Equity Agreement
Exhibit H	-	Form of IRS Notice
Exhibit I	-	Form of FIRPTA Notice
Exhibit J-1	-	Form of Tax Representations of Acquiror
Exhibit J-2	-	Form of Tax Representations of the Company

AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (this "***Agreement***") is made and entered into as of December 29, 2006 (the "***Agreement Date***"), by and among Cisco Systems, Inc., a California corporation ("***Acquiror***"), Ibiza Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Acquiror ("***Ibiza Sub***"), Eivissa Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Acquiror ("***Eivissa Sub***"), and IronPort Systems, Inc., a Delaware corporation (the "***Company***").

RECITALS

A. The Boards of Directors of the Company, Ibiza Sub, Eivissa Sub and Acquiror (or, with respect to Acquiror, a duly authorized committee of its Board of Directors) have determined that it would be advisable and in the best interests of their respective companies and the securityholders of their respective companies that (i) Ibiza Sub merge with and into the Company in a statutory reverse-triangular merger (the "***First Merger***"), with the Company to survive the First Merger, and (ii) immediately following the effectiveness of the First Merger, and as part of a single overall transaction with the First Merger pursuant to an integrated plan, the Company merge with and into Eivissa Sub in a statutory forward triangular merger (the "***Second Merger***" and collectively or in seriatim with the First Merger, as appropriate, the "***Merger***"), with Eivissa Sub to survive the Second Merger, on the terms and subject to the conditions set forth in this Agreement, and, in furtherance thereof, have approved the Merger, this Agreement and the other transactions contemplated by this Agreement.

B. Pursuant to the First Merger, among other things, the issued and outstanding shares of capital stock of the Company (other than shares held by the Company and Dissenting Shares (as defined in Section 1.1)) shall be converted into the right to receive shares of Acquiror Common Stock (as defined in Section 1.1) and/or cash in the manner set forth herein.

C. The Company and Acquiror intend, by executing this Agreement, to adopt a plan of reorganization within the meaning of Section 354(a)(1) of the Internal Revenue Code of 1986, as amended (the "***Code***"), and to cause the Merger to qualify as a "reorganization" under the provisions of Section 368(a) of the Code.

D. The Company, Ibiza Sub, Eivissa Sub and Acquiror desire to make certain representations, warranties, covenants and other agreements in connection with the Merger as set forth herein.

E. Concurrently with the execution of this Agreement and as a material inducement to the willingness of Acquiror to enter into this Agreement, the Company affiliate stockholders listed on Exhibit A-1 hereto are executing and delivering voting agreements (together with irrevocable proxies) in the form attached hereto as Exhibit A-2 (the "***Company Voting Agreement***").

F. Concurrently with the execution of this Agreement and as a material inducement to the willingness of Acquiror to enter into this Agreement, certain employees of the Company and its Subsidiaries (as defined in Section 1.1) identified on Schedule 6.3(f)-1 hereto (the "***Key Employees***") are executing employment agreements with Acquiror (each an "***Employment Agreement***") together with Acquiror's standard forms of Proprietary Information and Inventions Agreement, Arbitration Agreement, and Conflict of Interest Agreement, in each case to become effective upon the Closing (as defined in Section 1.3).

G. Concurrently with the execution of this Agreement and as a material inducement to the willingness of Acquiror to enter into this Agreement, certain employee-stockholders of the Company and its Subsidiaries identified on Schedule 6.3(f)-3 hereto are entering into non-competition agreements with Acquiror (each, a "***Non-Competition Agreement***"), in each case to become effective upon the Closing.

H. Concurrently with the execution of this Agreement and as a material inducement to the willingness of Acquiror to enter into this Agreement, the Company and certain employees of the Company and its Subsidiaries identified on Schedule 6.3(f)-4 hereto who might otherwise have the right or entitlement to receive (i) any accelerated vesting of, or accelerated right to exercise, any Company Options (as defined in Section 1.1) in connection with the Merger and/or the termination of employment or service with the Company or Acquiror or any of their respective subsidiaries following the Merger and/or (ii) any severance payments or other benefits or payments in connection with the Merger and/or the termination of employment or service with the Company or Acquiror or any of their respective subsidiaries following the Merger, are entering into benefits waivers in the form attached hereto as Exhibit E (each, a "***Benefits Waiver***"), pursuant to which each such employee has agreed to waive such accelerated vesting, accelerated right to exercise, payments and benefits, in each case to become effective upon the Closing.

I. Concurrently with the execution of this Agreement and as a material inducement to the willingness of Acquiror to enter into this Agreement, the Company and the employee of the Company and its Subsidiaries identified on Schedule 1.4(b)(xviii) hereto are entering into an equity agreement in the form attached hereto as Exhibit G (the "***Equity Agreement***"), to become effective upon the Closing.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and other agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

THE MERGER

1.1 Certain Definitions. As used in this Agreement, the following terms shall have the meanings indicated below. Unless indicated otherwise, all mathematical calculations contemplated hereby shall be rounded to the tenth decimal place.

"***2001 Stock Plan***" means the 2001 Stock Plan of the Company.

"***2007 Incentive Plan***" means the 2007 Incentive Plan of the Company.

"***Acquiror Common Stock***" means the Common Stock, par value $0.001 per share, of Acquiror.

"***Acquiror Options***" means options to purchase shares of Acquiror Common Stock.

"***Acquiror Stock Price***" means the average of the closing sale prices of Acquiror Common Stock as quoted on the Nasdaq Stock Market for the consecutive trading days beginning with the Agreement Date and ending with the trading day that is three trading days prior to the Closing Date (as defined in Section 1.3).

"***Affiliate***" has the meaning set forth in Rule 144 promulgated under the Securities Act.

"***Business Day***" means a day (A) other than Saturday or Sunday and (B) on which commercial banks are open for business in San Francisco, California.

"***California Law***" means the General Corporation Law of the State of California.

"***Cash Amount Per Share***" means (A) the Cash Value Per Share, less (B) the Escrow Cash Per Share.

"***Cash Election Share***" means each share of Company Capital Stock (other than a Dissenting Share) (A) for which the holder has elected pursuant to the procedures specified herein to have converted into cash in the First Merger (provided, however, that this term shall not include any share of Company Capital Stock that the holder of which has elected to be treated as a Cash Election Share, but is redesignated as a Stock Election Share pursuant to the last two sentences of Section 5.1(g)) and (B) that is held in the PostX Escrow Fund (as defined in Section 8.3(c)). Unvested Company Shares as of immediately prior to the First Effective Time may not constitute Cash Election Shares.

"***Cash Value Per Share***" means the quotient obtained by dividing (A) the Total Merger Consideration by (B) the Fully-Diluted Company Shares.

"***Change of Control Policy***" means the Change of Control Policy of the Company (it being understood that the benefits provided thereunder are being waived by signatories to the Benefits Waiver).

"***Code***" shall mean the United States Internal Revenue Code of 1986, as amended.

"***Company Board***" shall mean the board of directors of the Company.

"***Company Capital Stock***" means the capital stock of the Company.

"***Company Common Stock***" means the Common Stock, par value of $0.0001 per share, of the Company.

"***Company Net Working Capital***" means (A) the Company's consolidated current assets as of the Closing Date immediately prior to the First Effective Time (as defined by and determined in accordance with GAAP) less (B) the Company's consolidated current liabilities as of the Closing Date immediately prior to the First Effective Time (as defined by and determined in accordance with GAAP). Notwithstanding the foregoing, for purposes of calculating Company Net Working Capital, (1) the accounts receivable included in the Company's consolidated current assets will consist of only accounts receivable outstanding for less than 90 days that are not otherwise doubtful, (2) the Company's consolidated current assets will exclude all prepaid costs of goods sold, (3) the Company's consolidated current liabilities will include all Company Debt (as defined in Section 2.4(d)) and all Liabilities for Taxes as of the Closing Date immediately prior to the First Effective Time (whether or not such Liabilities for Taxes would be then due and payable), (4) the Company's consolidated current liabilities will exclude all deferred revenue and deferred income and the line item for "early exercise option liability", (5) the Company's consolidated current liabilities will include all Transaction Expenses paid or payable by the Company or its Subsidiaries, and (6) cash severance payments to any non-officer Designated Employee (as defined in Section 5.12(a)) not in excess of four months of base salary will not be included in such calculation, in each of the foregoing cases whether or not such particular item would otherwise be treated as a current asset or current liability, as the case may be, under GAAP.

"***Company Net Working Capital Certificate***" means a certificate executed by the Chief Financial Officer of the Company dated as of the Closing Date, certifying the amount of Company Net Working Capital and illustrating the calculation of Company Net Working Capital consistent with the inclusions and exclusions noted in the definition of "Company Net Working Capital" above, including (A) an itemized list of each element of the Company's consolidated total current assets (corresponding to the line items set forth in the Company Balance Sheet (as defined in Section 2.4(a)) to the maximum extent practicable), (B) an itemized list of each element of the Company's consolidated total current liabilities (corresponding to the line items set forth in the Company Balance Sheet to the maximum extent practicable), (C) an itemized list of each Company Debt with a description of the nature of such Company Debt and the Person to whom such Company Debt is owed, and (D) an itemized list of each Transaction Expense with a description of the amount and nature of such expense and the Person to whom such expense was or is owed. The Company Net Working Capital Certificate shall include a representation of the Company, certified by the Chief Financial Officer of the Company, that such certificate includes all of the Transaction Expenses paid or payable at any time prior to, at or following the Closing Date, it being the expressed intent of the Company and Acquiror that to the maximum extent possible there be no Indemnifiable Transaction Expenses.

"***Company Option Plan***" means each stock option plan, program or arrangement of the Company, collectively, including the 2001 Stock Plan, the 2007 Incentive Plan and the PostX Corporation 1996 Stock Plan, 1998 Stock Plan, and 2001 Stock Plan (but shall not include the non-plan option grant to the Entrepreneurs Foundation dated December 15, 2004).

"***Company Optionholders***" means the holders of Company Options.

"***Company Options***" means options to purchase shares of Company Capital Stock.

"***Company Preferred Stock***" means the Company Series A Stock, Company Series B Stock, Company Series C Stock and Company Series D Stock, collectively.

"***Company Securityholders***" means the Company Stockholders, Company Optionholders and Company Warrantholders, collectively.

"***Company Series A Stock***" means the Series A Preferred Stock, par value $0.0001 per share, of the Company.

"***Company Series B Stock***" means the Series B Preferred Stock, par value $0.0001 per share, of the Company.

"***Company Series C Stock***" means the Series C Preferred Stock, par value $0.0001 per share, of the Company.

"***Company Series D Stock***" means the Series D Preferred Stock, par value $0.0001 per share, of the Company.

"***Company Stockholders***" means the holders of Company Capital Stock.

"***Company Warrantholders***" means the holders of Company Warrants.

"***Company Warrants***" means warrants to purchase shares of Company Capital Stock.

"***Continuing Employees***" means the Key Employees and employees or contractors of the Company as set forth on Schedule 6.3(f)-2 and Schedule 6.3(g) who execute the documents described in Section 1.4(b)(vii) and become employees of Acquiror or its subsidiaries following the First Effective Time.

"***Contract***" means any written or oral legally binding contract, agreement, instrument, commitment or undertaking of any nature (including leases, licenses, mortgages, notes, guarantees, sublicenses, subcontracts, letters of intent and purchase orders) as of the Agreement Date or as may hereafter be in effect.

"***Damages***" means any losses, liabilities, damages, fees, costs or expenses, including reasonable costs of investigation and defense and reasonable fees and expenses of lawyers, experts and other professionals.

"***Delaware Law***" means the General Corporation Law of the State of Delaware.

"***delivered***" means, with respect to any statement in Article II of this Agreement to the effect that any information, document or other material has been "delivered" to Acquiror or its representatives, that such information, document or material was: (A) made available for review by Acquiror or its representatives in the virtual data room set up by Fenwick & West LLP in connection with this Agreement no later than 5:00 p.m. Pacific Time on the date two Business Days prior to the Agreement Date; (B) made available for review by Acquiror or its representatives in the virtual data room set up by Heller Ehrman White & McAuliffe LLP in connection with this Agreement no later than 5:00 p.m. Pacific Time on the date two Business Days prior to the Agreement Date; (C) following advance notice to Acquiror or its representatives that such information, document or material would not be made available pursuant to the foregoing clause (A) or (B), made available for review by Acquiror or its representatives in the physical data room set up by the Company in connection with this Agreement no later than 5:00 p.m. Pacific Time on the date two Business Days prior to the Agreement Date; or (D) actually delivered (whether by physical or electronic delivery) to Acquiror or its representatives no later than 5:00 p.m. Pacific Time on the date two Business Days prior to the Agreement Date.

"***Dissenting Shares***" means any shares of Company Capital Stock that are issued and outstanding immediately prior to the First Effective Time and in respect of which appraisal or dissenters' rights shall have been perfected in accordance with California Law and/or Delaware Law in connection with the First Merger.

"***Effective Time Election Shares***" means the sum, without duplication, of (A) the aggregate number of shares of Company Common Stock that are Cash Election Shares and are issued and outstanding immediately prior to the First Effective Time, (B) the aggregate number of shares of Company Common Stock that are issuable upon conversion of shares of Company Preferred Stock that are Cash Election Shares and are issued and outstanding immediately prior to the First Effective Time, (C) the aggregate number of shares of Company Common Stock that are Stock Election Shares and are issued and outstanding immediately prior to the First Effective Time, and (D) the aggregate number of shares of Company Common Stock that are issuable upon conversion of shares of Company Preferred Stock that are Stock Election Shares and are issued and outstanding immediately prior to the First Effective Time.

"***Effective Time Holder***" means a Company Stockholder as of immediately prior to the First Effective Time (other than a holder of solely shares of Company Capital Stock which constitute and remain Dissenting Shares).

"***Election Form***" means a document (in a form reasonably acceptable to Acquiror, the Company and the Exchange Agent) to be executed by a holder of Company Capital Stock and returned to the Company, pursuant to which such holder shall make an irrevocable election to treat such holder's shares of Company Capital Stock (after deduction of the Escrow Cash Per Share) as Cash Election Shares or Stock Election Shares. With respect to the shares of Company Capital Stock represented by a particular stock certificate, such election may designate the particular number of shares which are Cash Election Shares and/or Stock Election Shares, respectively (provided that such election may not be made with respect to any fraction of a share). Notwithstanding the foregoing, (A) such Election Form shall specify that all Unvested Company Shares as of immediately prior to the First Effective Time shall constitute Stock Election Shares and (B) all shares of Company Capital Stock held in the PostX Escrow Fund (as defined in Section 8.3(c)) shall constitute Cash Election Shares.

"***Encumbrance***" means, with respect to any asset, any mortgage, deed of trust, lien, pledge, charge, security interest, title retention device, conditional sale or other security arrangement, collateral assignment, claim, charge, adverse claim of title, ownership or right to use, restriction or other encumbrance of any kind in respect of such asset (including any restriction on (i) the voting of any security or the transfer of any security or other asset, (ii) the receipt of any income derived from any asset, (iii) the use of any asset, and (iv) the possession, exercise or transfer of any other attribute of ownership of any asset).

"***Escrow Cash***" means cash in an amount equal to 10% of the Total Merger Consideration.

"***Escrow Cash Per Share***" means the quotient obtained by dividing (A) the Escrow Cash by (B) the Effective Time Election Shares.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

"***Fully-Diluted Company Shares***" means the sum, without duplication, of (A) the aggregate number of shares of Company Common Stock that are issued and outstanding immediately prior to the First Effective Time, (B) the aggregate number of shares of Company Common Stock that are issuable upon conversion of shares of Company Preferred Stock that are issued and outstanding immediately prior to the First Effective Time, (C) the aggregate number of shares of Company Common Stock that are issuable upon the exercise of Company Options, Company Warrants or other direct or indirect rights to acquire shares of the Company Common Stock (other than New Company Options) that are issued and outstanding immediately prior to the First Effective Time (whether or not then vested or exercisable), and (D) the aggregate number of shares of Company Common Stock that are issuable upon the conversion of shares of Company Preferred Stock that are issuable upon the exercise of Company Options, Company Warrants or other direct or indirect rights to acquire shares of the Company Preferred Stock that are issued and outstanding immediately prior to the First Effective Time (whether or not then vested or exercisable); provided, however, that for the avoidance of doubt, "Fully-Diluted Company Shares" shall not include any shares of Company Common Stock issuable upon (x) the exercise of Company Options that are not assumed by Acquiror and expire unexercised as of immediately prior to the First Effective Time or (y) the conversion of shares of Company Preferred Stock that are issuable upon the exercise of Company Warrants that are not assumed by Acquiror and expire unexercised as of immediately prior to the First Effective Time.

"***GAAP***" means United States generally accepted accounting principles applied on a consistent basis.

"***Governmental Entity***" means any supranational, national, state, municipal, local or foreign government, any court, tribunal, arbitrator, administrative agency, commission or other governmental official, authority or instrumentality, in each case whether domestic or foreign, any stock exchange or similar self-regulatory organization or any quasi-governmental or private body exercising any regulatory, Taxing or other governmental or quasi-governmental authority.

"***HSR Act***" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***Indemnifiable Transaction Expenses***" means any Transaction Expenses which have not been taken into account in the calculation of Company Net Working Capital. All Indemnifiable Transaction Expenses shall constitute "Indemnifiable Damages" for purposes of Article VIII without regard to the Threshold (as defined in Section 8.3).

"***knowledge***" means, with respect to any fact, circumstance, event or other matter in question, the knowledge of such fact, circumstance, event or other matter after reasonable inquiry of (A) an individual, if used in reference to an individual or (B) with respect to the Company, W. Scott Weiss, Scott Banister, Craig Collins, Tom Gillis, Steve Shray, Nawaf Bitar, Shrey Bhatia, Jeff Williams, Kelly Battles, Keith Valory, Danielle Murcray and Anna Binder (and, with respect to Section 2.10 (Intellectual Property), Patrick Peterson, Peter Schlampp and Mark Peek as well) (the individuals specified in clause (B) are collectively referred to herein as the "***Entity Representatives***"). Any such individual or Entity Representative will also be deemed to have knowledge of a particular fact, circumstance, event or other matter in question if such knowledge could be obtained from reasonable inquiry of the persons employed by such Person charged with administrative or operational responsibility for such matters for such Person.

"***Legal Requirements***" means any federal, state, foreign, local, municipal or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity and any orders, writs, injunctions, awards, judgments and decrees applicable to the Company or any Subsidiary or to any of their respective assets, properties or businesses.

"***Liabilities***" means all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, determined or determinable, asserted or unasserted, known or unknown, including those arising under any law, action or governmental order and those arising under any Contract.

"***Material Adverse Effect***" with respect to any entity means any change, event, violation, inaccuracy, circumstance or effect (each, an "***Effect***") that, individually or taken together with all other Effects, and regardless of whether or not such Effect constitutes a breach of the representations or warranties made by such entity in this Agreement, is, or is reasonably likely to (A) be or become materially adverse in relation to the near-term or longer-term condition (financial or otherwise), properties, assets (including intangible assets), liabilities, business, capitalization, operations or results of operations of such entity and its subsidiaries, taken as a whole, or (B) materially impede or delay such entity's ability to consummate the transactions contemplated by this Agreement in accordance with its terms and applicable Legal Requirements, except to the extent that any such Effect directly results from (1) changes in general economic conditions (provided that such changes do not affect such entity disproportionately as compared to such entity's competitors), (2) changes affecting the industry generally in which such entity operates (provided that such changes do not affect such entity disproportionately as compared to such entity's competitors), (3) acts of God, acts of war or acts of terrorism (provided that

such acts do not affect such entity disproportionately as compared to such entity's competitors), (4) employee attrition directly resulting from announcement of the execution of this Agreement and the transaction contemplated hereby, (5) actions taken by such entity in accordance with the terms of this Agreement (or in the case of the Company, at the written request of Acquiror), or (6) changes in GAAP.

"***New Company Options***" means the Company Options granted under the 2007 Incentive Plan pursuant to Section 5.12(c) to purchase an aggregate of 8,000,000 shares of Company Common Stock.

"***Option Exchange Ratio***" means the quotient obtained by dividing (A) the Cash Value Per Share by (B) the Acquiror Stock Price.

"***Permitted Encumbrances***" means: (A) statutory liens for Taxes that are not yet due and payable or liens for Taxes being contested in good faith by any appropriate proceedings for which adequate reserves have been established; (B) statutory liens to secure obligations to landlords, lessors or renters under leases or rental agreements; (C) deposits or pledges made in connection with, or to secure payment of, workers' compensation, unemployment insurance or similar programs mandated by applicable law; (D) statutory liens in favor of carriers, warehousemen, mechanics and materialmen, to secure claims for labor, materials or supplies and other like liens; (E) liens in favor of customs and revenue authorities arising as a matter of Legal Requirements to secure payments of customs duties in connection with the importation of goods; (F) non-exclusive object code licenses of software by the Company or a Subsidiary in the ordinary course of its business consistent with past practice on its standard form of customer agreement which is not modified in any material respect (a copy of which has been delivered to Acquiror's counsel) or for which copies have otherwise been delivered to Acquiror's counsel; and (G) with respect to Company Capital Stock, Company Options or Company Warrants, any restrictions on transfer imposed by applicable federal and state securities laws or written Contracts between the Company and the holders thereof.

"***Person***" means any natural person, company, corporation, limited liability company, general partnership, limited partnership, trust, proprietorship, joint venture, business organization or Governmental Entity.

"***PostX Agreement***" means the Agreement and Plan of Merger dated October 24, 2006 by and among the Company, Pluto Acquisition Corporation, a California corporation and wholly-owned subsidiary of the Company, and PostX Corporation, a California corporation ("***PostX***"), as amended from time to time in accordance with its terms, pursuant to which Pluto Acquisition Corporation will merge with and into PostX in a statutory reverse-triangular merger (the "***PostX Merger***"), with PostX to survive the PostX Merger as a wholly-owned subsidiary of the Company.

"***proposed to be conducted***" means, with respect to the business of the Company and its Subsidiaries, the business currently conducted by the Company and it Subsidiaries and the design, development, manufacturing, reproduction, marketing, licensing, sale, offer for sale, importation, distribution, provision and/or use of any Company Product currently in development that has reached the prototype or testing stage or later stage of development, in each case in a manner consistent with how the Company and its Subsidiaries conduct their business with respect to Company Products shipping as of the First Effective Time.

"***Pro Rata Share***" means, with respect to a particular Effective Time Holder, the aggregate amount of Escrow Cash Per Share such Effective Time Holder is entitled to receive pursuant to Section 1.9(a) with respect to its Company Capital Stock (other than Dissenting Shares) and relative to

the amount of Escrow Cash Per Share all Effective Time Holders are entitled to receive pursuant to Section 1.9(a) with respect to their Company Capital Stock (other than Dissenting Shares).

"***SEC***" means the Securities and Exchange Commission.

"***Securities Act***" means the Securities Act of 1933, as amended.

"***Stock Amount Per Share***" means the quotient obtained by dividing (A) the Cash Amount Per Share by (B) the Acquiror Stock Price.

"***Stock Election Share***" means each share of Company Capital Stock (other than a Dissenting Share) (A) for which either (1) the holder has elected pursuant to the procedures specified herein to have converted into Acquiror Common Stock (other than the Escrow Cash Per Share) in the First Merger, (2) the holder has failed to properly make a timely election pursuant to the procedures specified herein, or (3) the holder has elected pursuant to the procedures specified herein to be treated as a Cash Election Share, but is redesignated as a Stock Election Share pursuant to the last two sentences of Section 5.1(g), or (B) that is an Unvested Company Share as of immediately prior to the First Effective Time.

"***Subsidiary***" means any corporation, association, business entity, partnership, limited liability company or other Person of which the Company, either alone or together with one or more Subsidiaries or by one or more other Subsidiaries, (A) directly or indirectly owns or controls securities or other interests representing more than 50% of the voting power of such Person, or (B) is entitled, by Contract or otherwise, to elect, appoint or designate directors constituting a majority of the members of such Person's board of directors or other governing body.

"***Tax***" (and, with correlative meaning, "***Taxes***" and "***Taxable***") means (A) any net income, alternative or add-on minimum tax, gross income, estimated, gross receipts, sales, use, ad valorem, value added, transfer, franchise, capital stock, profits, license, registration, withholding, payroll, social security (or equivalent), employment, unemployment, disability, excise, severance, stamp, occupation, premium, property (real, tangible or intangible), environmental or windfall profit tax, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount (whether disputed or not) imposed by any Governmental Entity responsible for the imposition of any such tax (domestic or foreign) (each, a "***Tax Authority***"), (B) any Liability for the payment of any amounts of the type described in clause (A) of this sentence as a result of being a member of an affiliated, consolidated, combined, unitary or aggregate group for any Taxable period, and (C) any Liability for the payment of any amounts of the type described in clause (A) or (B) of this sentence as a result of being a transferee of or successor to any Person or as a result of any express or implied obligation to assume such Taxes or to indemnify any other Person.

"***Tax Return***" means any return, statement, report or form (including estimated Tax returns and reports, withholding Tax returns and reports, any schedule or attachment, and information returns and reports) required to be filed with respect to Taxes.

"***Total Merger Consideration***" means (A) $774,395,000 (provided, however, that if the PostX Merger has not been consummated prior to the First Effective Time, the amount in this clause (A) shall instead be deemed to be $716,315,375), less (B) the amount (if any) by which the Company Net Working Capital is less than $15,000,000.

"***Transaction Expenses***" means all third party fees and expenses incurred by the Company in connection with the Merger and this Agreement and the transactions contemplated hereby

whether or not billed or accrued (including any fees and expenses of legal counsel and accountants, the maximum amount of fees and expenses payable to financial advisors, investment bankers and brokers of the Company and the Subsidiaries notwithstanding any contingencies for earnouts, escrows, etc., and any such fees incurred by Company Securityholders or Company employees, paid for or to be paid for by the Company).

"***Unvested Company Shares***" means any Company Capital Stock that is not vested, or is subject to a right of repurchase in favor of the Company (as opposed to a right of first refusal upon a proposed transfer to a third party), under the terms of any Contract with the Company (including, any stock option agreement, or stock option exercise agreement, or restricted stock purchase agreement).

Other capitalized terms defined elsewhere in this Agreement and not defined in this Section 1.1 shall have the meanings assigned to such terms in this Agreement.

1.2 The Merger. At the First Effective Time (as such term is defined in Section 1.5), on the terms and subject to the conditions set forth in this Agreement, the Certificate of Merger in substantially the form attached hereto as Exhibit B-1 (the "***First Certificate of Merger***") and the applicable provisions of Delaware Law, Ibiza Sub shall merge with and into the Company, the separate corporate existence of Ibiza Sub shall cease and the Company shall continue as the surviving corporation and shall become a wholly-owned subsidiary of Acquiror. At the Second Effective Time (as such term is defined in Section 1.5), on the terms and subject to the conditions set forth in this Agreement, the Certificate of Merger in substantially the form attached hereto as Exhibit B-2 (the "***Second Certificate of Merger***") and the applicable provisions of Delaware Law, and as part of a single overall transaction with the First Merger pursuant to an integrated plan, the Company shall merge with and into Eivissa Sub, the separate corporate existence of the Company shall cease and Eivissa Sub shall continue as the surviving corporation. Eivissa Sub, as the surviving corporation after the Second Merger, is hereinafter sometimes referred to as the "***Surviving Corporation***."

1.3 Closing. Unless this Agreement is earlier terminated in accordance with Section 7.1, the closing of the transactions contemplated hereby (the "***Closing***") shall take place at a time and date to be specified by the parties (which will be no later than five Business Days) after the satisfaction or waiver of each of the conditions set forth in Article VI (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions). The Closing shall take place at the offices of Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, California, or at such other location as the parties hereto agree. The date on which the Closing occurs is herein referred to as the "***Closing Date***."

1.4 Closing Deliveries.

(a) Acquiror and Sub Deliveries. Acquiror shall deliver to the Company, at or prior to the Closing, each of the following:

(i) a certificate, dated as of the Closing Date, executed on behalf of Acquiror by a duly authorized officer of Acquiror, to the effect that each of the conditions set forth in clause (a) of Section 6.2 has been satisfied; and

(ii) an Escrow Agreement, in substantially the form attached hereto as Exhibit C (the "***Escrow Agreement***"), dated as of the Closing Date and executed by Acquiror and the Escrow Agent (as such term is defined in Section 8.1).

(b) Company Deliveries. The Company shall deliver to Acquiror, at or prior to the Closing, each of the following:

(i) a certificate, dated as of the Closing Date and executed on behalf of the Company by its Chief Executive Officer, to the effect that each of the conditions set forth in clause (a) of Section 6.3 has been satisfied;

(ii) a certificate, dated as of the Closing Date and executed on behalf of the Company by its Secretary, certifying the Company's (A) certificate of incorporation, (B) bylaws, (C) board resolutions approving the Merger and adopting this Agreement, and (D) stockholder resolutions approving the Merger and adopting this Agreement;

(iii) a written opinion from the Company's legal counsel, covering the matters set forth on Exhibit D, dated as of the Closing Date and addressed to Acquiror;

(iv) the Escrow Agreement, dated as of the Closing Date and executed by the Stockholders' Agent (as such term is defined in Section 8.7(a));

(v) an Employment Agreement with Acquiror, together with an executed Proprietary Information and Inventions Agreement, Arbitration Agreement and Conflict of Interest Agreement, in each case in Acquiror's standard form, executed by each of the individuals set forth on Schedule 6.3(f)-1 hereto;

(vi) a Non-Competition Agreement executed by each of the individuals set forth on Schedule 6.3(f)-3 hereto;

(vii) an Offer Letter, together with an executed Proprietary Information and Inventions Agreement, Arbitration Agreement, Conflict of Interest Agreement and Code of Conduct, in each case in Acquiror's standard form, executed by at least 80% of the individuals set forth on Schedule 6.3(f)-2 hereto;

(viii) evidence reasonably satisfactory to Acquiror of the resignation of each of the directors and each of the officers of the Company and of each Subsidiary in office immediately prior to the Closing as directors and/or officers, as applicable, of the Company and of each such Subsidiary, effective no later than immediately prior to the First Effective Time;

(ix) true, correct and complete copies of all election statements under Section 83(b) of the Code that are in the Company's possession with respect to any unvested securities or other property issued by the Company, any Subsidiary or any ERISA Affiliate to any of their respective employees, non-employee directors, consultants and other service providers;

(x) (A) a contractor agreement in a form reasonably satisfactory to Acquiror (or alternatively the employment documents described in Section 1.4(b)(vii)) duly executed by at least 80% of the Persons set forth on Schedule 6.3(g) hereto, which schedule will be completed following the Agreement Date pursuant to Section 5.12(b) (the "***Specified Contractors***"), and (B) evidence satisfactory to Acquiror of the termination of service with the Company and each Subsidiary of all independent contractors, consultants and/or advisory board members who are not Specified Contractors (or who have otherwise declined an offer of employment or continued contractor status from Acquiror) effective no later than immediately prior to the Closing;

(xi) a Benefits Waiver, in substantially the form attached hereto as Exhibit E, executed by the Company and each Person required to execute such a waiver pursuant to Section 5.14 hereof;

(xii) a Parachute Payment Waiver, in substantially the form attached hereto as Exhibit F (the "***Parachute Payment Waiver***"), executed by each Person required to execute such a waiver pursuant to Section 5.17 hereof;

(xiii) unless otherwise requested by Acquiror in writing no less than three Business Days prior to the Closing Date, (A) a true, correct and complete copy of resolutions adopted by the Company Board, certified by the Secretary of the Company, authorizing the termination of each or all of the Company Employee Plans (as such term is defined in Section 2.13(a)) that are "employee benefit plans" within the meaning of ERISA, including the Company's 401(k) Plan (the "***401(k) Plan***"), and (B) an amendment to the 401(k) Plan, executed by the Company, that is sufficient to assure compliance with all applicable requirements of the Code and regulations thereunder so that the Tax-qualified status of the 401(k) Plan shall be maintained at the time of its termination, with such amendment and termination to be effective on the date immediately preceding the First Effective Time and contingent upon the Closing;

(xiv) a certificate from the Secretary of State of the States of Delaware and California and each other State or other jurisdiction in which the Company or any Subsidiary is qualified to do business as a foreign corporation dated within three days prior to the Closing Date certifying that the Company or such Subsidiary is in good standing and that all applicable State franchise or similar Taxes and fees of the Company or such Subsidiary through and including the date of the certificate have been paid;

(xv) evidence reasonably satisfactory to Acquiror of (A) the novation or consent to assignment of any Person whose novation or consent to assignment, as the case may be, may be required in connection with the Merger or any other transaction contemplated by this Agreement under the contracts listed or described on Schedule 1.4(b)(xv)-1 hereto, (B) the termination of each of the contracts of the Company listed or described on Schedule 1.4(b)(xv)-2 hereto, and (C) the termination or waiver of any rights of first refusal or redemption rights in favor of any Company Stockholder which by their terms survive the First Effective Time, effective as of and contingent upon the Closing;

(xvi) the Spreadsheet (as such term is defined in Section 5.10) completed to include all of the information specified in Section 5.10 in a form reasonably acceptable to Acquiror and a certificate executed by the Chief Executive Officer of the Company, dated as of the Closing Date, certifying that such Spreadsheet is true, correct and complete;

(xvii) the Company Net Working Capital Certificate, which certificate shall be accompanied by the Company's calculation of the amount of Company Net Working Capital;

(xviii) an Equity Agreement, in substantially the form attached hereto as Exhibit G, executed by the Company and the individual listed on Schedule 1.4(b)(xviii) hereto;

(xix) executed UCC-2 or UCC-3 termination statements executed by each Person holding a security interest in any assets of the Company or any Subsidiary as of the Closing Date terminating any and all such security interests and evidence reasonably satisfactory to Acquiror that all Encumbrances on assets of the Company and its Subsidiaries shall have been released prior to or shall be released simultaneously with the Closing;

(xx) FIRPTA documentation, including (A) a notice to the Internal Revenue Service, in accordance with the requirements of Treasury Regulation Section 1.897-2(h)(2), in substantially the form attached hereto as Exhibit H, dated as of the Closing Date and executed by the Company, together with written authorization for Acquiror to deliver such notice form to the Internal Revenue Service on behalf of the Company after the Closing, and (B) a FIRPTA Notification Letter, in substantially the form attached hereto as Exhibit I, dated as of the Closing Date and executed by the Company;

(xxi) executed confirmatory assignments of Intellectual Property in a form that is reasonably acceptable to Acquiror from each of the Persons set forth on Schedule 1.4(b)(xxi) hereto; and

(xxii) complete and correct copies of all executed stock option grants and agreements relating to New Company Options.

1.5 Effective Time. At the Closing, after the satisfaction or waiver of each of the conditions set forth in Article VI, (a) Ibiza Sub and the Company shall cause the First Certificate of Merger to be filed with the Secretary of State of the State of Delaware, in accordance with the relevant provisions of Delaware Law (the time of acceptance by the Secretary of State of the State of Delaware of such filing or such later time as may be agreed to by Acquiror and the Company in writing (and set forth in the First Certificate of Merger) being referred to herein as the "***First Effective Time***"), and (b) immediately thereafter, the Company and Eivissa Sub shall cause the Second Certificate of Merger to be filed with the Secretary of State of the State of Delaware, in accordance with the relevant provisions of Delaware Law (the time of acceptance by the Secretary of State of the State of Delaware of such filing or such later time as may be agreed to by Acquiror and the Company in writing (and set forth in the Second Certificate of Merger) being referred to herein as the "***Second Effective Time***").

1.6 Effect of the Merger.

(a) At the First Effective Time, the effect of the First Merger shall be as provided in this Agreement, the First Certificate of Merger and the applicable provisions of Delaware Law. Without limiting the generality of the foregoing, and subject thereto, at the First Effective Time, all the property, rights, privileges, powers and franchises of the Company and Ibiza Sub shall vest in the Company, and all debts, liabilities and duties of the Company and Ibiza Sub shall become debts, liabilities and duties of the Company.

(b) At the Second Effective Time, the effect of the Second Merger shall be as provided in this Agreement, the Second Certificate of Merger and the applicable provisions of Delaware Law. Without limiting the generality of the foregoing, and subject thereto, at the Second Effective Time, all the property, rights, privileges, powers and franchises of the Company and Eivissa Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Eivissa Sub shall become debts, liabilities and duties of the Surviving Corporation.

1.7 Certificate of Incorporation and Bylaws.

(a) At the First Effective Time, (i) the Certificate of Incorporation of the Company shall be amended in its entirety to read as set forth in the First Certificate of Merger, until thereafter amended as provided by Delaware Law, and (ii) the Bylaws of the Company shall be amended in their entirety to read as the Bylaws of Ibiza Sub, until thereafter amended as provided by Delaware Law, the Certificate of Incorporation of the Company and such Bylaws.

(b) At the Second Effective Time, (i) the Certificate of Incorporation of Eivissa Sub shall be amended in its entirety to read as set forth in the Second Certificate of Merger, until thereafter amended as provided by Delaware Law, and (ii) the Bylaws of Eivissa Sub shall continue unchanged and be the Bylaws of the Surviving Corporation, until thereafter amended as provided by Delaware Law, the Certificate of Incorporation of the Surviving Corporation and such Bylaws.

1.8 Directors and Officers.

(a) At the First Effective Time, (i) the members of the Board of Directors of Ibiza Sub immediately prior to the First Effective Time shall be appointed as the members of the Board of Directors of the Company immediately after the First Effective Time until their respective successors are duly elected or appointed and qualified, and (ii) the officers of Ibiza Sub immediately prior to the First Effective Time shall be appointed as the officers of the Company immediately after the First Effective Time until their respective successors are duly appointed.

(b) At the Second Effective Time, (i) the members of the Board of Directors of Eivissa Sub immediately prior to the Second Effective Time shall continue to be the members of the Board of Directors of the Surviving Corporation immediately after the Second Effective Time until their respective successors are duly elected or appointed and qualified, and (ii) the officers of Eivissa Sub immediately prior to the Second Effective Time shall continue to be the officers of the Surviving Corporation immediately after the Second Effective Time until their respective successors are duly appointed.

1.9 Effect on Capital Stock and Options.

(a) On the terms and subject to the conditions set forth in this Agreement, and without any action on the part of any holder of the Company Capital Stock and/or Company Options:

(i) Company Preferred Stock.

(1) Stock Election Shares. At the First Effective Time, each share of Company Preferred Stock issued and outstanding immediately prior to the First Effective Time (other than Dissenting Shares and shares owned by the Company) that is a Stock Election Share shall be automatically converted into the right to receive, subject to and in accordance with Section 1.10(c), (A) a number of shares of Acquiror Common Stock equal to the product obtained by multiplying (i) the number of shares of Company Common Stock issuable upon conversion of such share of Company Preferred Stock by (ii) the Stock Amount Per Share and (B) an amount of cash (without interest) equal to the product obtained by multiplying (i) the number of shares of Company Common Stock issuable upon conversion of such share of Company Preferred Stock by (ii) the Escrow Cash Per Share. The number of shares of Acquiror Common Stock each Company Stockholder is entitled to receive for the shares of Company Preferred Stock held by such Company Stockholder that are Stock Election Shares shall be rounded down to the nearest whole share and computed after aggregating all shares of Company Preferred Stock represented by a particular stock certificate that are Stock Election Shares held by such Company Stockholder.

(2) Cash Election Shares. At the First Effective Time, each share of Company Preferred Stock issued and outstanding immediately prior to the First Effective Time (other than Dissenting Shares and shares owned by the Company) that is a Cash Election Share shall be automatically converted into the right to receive, subject to and in accordance with Section 1.10(c), an amount of cash (without interest) equal to the products obtained by multiplying (A) the number of shares of Company Common Stock issuable upon conversion of such share of Company Preferred Stock by (B)

each of (i) the Cash Amount Per Share and (ii) the Escrow Cash Per Share. The amount of cash each Company Stockholder is entitled to receive for the shares of Company Preferred Stock held by such Company Stockholder that are Cash Election Shares shall be rounded to the nearest cent and computed after aggregating cash amounts for all shares of Company Preferred Stock represented by a particular stock certificate that are Cash Election Shares held by such Company Stockholder.

(ii) Company Common Stock.

(1) Stock Election Shares. At the First Effective Time, each share of Company Common Stock issued and outstanding immediately prior to the First Effective Time (other than Dissenting Shares and shares owned by the Company) that is a Stock Election Share shall be automatically converted into the right to receive, subject to and in accordance with Section 1.10(c), (A) a number of shares of Acquiror Common Stock equal to the Stock Amount Per Share and (B) an amount of cash (without interest) equal to the Escrow Cash Per Share. The number of shares of Acquiror Common Stock each Company Stockholder is entitled to receive for the shares of Company Common Stock held by such Company Stockholder that are Stock Election Shares shall be rounded down to the nearest whole share and computed after aggregating all shares of Company Common Stock that are Stock Election Shares represented by a particular stock certificate held by such Company Stockholder.

(2) Cash Election Shares. At the First Effective Time, each share of Company Common Stock issued and outstanding immediately prior to the First Effective Time (other than Dissenting Shares and shares owned by the Company) that is a Cash Election Share shall be automatically converted into the right to receive, subject to and in accordance with Section 1.10(c), an amount of cash (without interest) equal to (A) the Cash Amount Per Share and (B) the Escrow Cash Per Share. The amount of cash each Company Stockholder is entitled to receive for the shares of Company Common Stock held by such Company Stockholder that are Cash Election Shares shall be rounded to the nearest cent and computed after aggregating cash amounts for all shares of Company Common Stock that are Cash Election Shares represented by a particular stock certificate held by such Company Stockholder.

(iii) Unvested Company Shares. The shares of Acquiror Common Stock issuable and cash payable pursuant to clause (ii) of Section 1.9(a) in exchange for Company Capital Stock that immediately prior to the First Effective Time constituted Unvested Company Shares shall be subject to the same restrictions and vesting arrangements that were applicable to such Unvested Company Shares immediately prior to or at the First Effective Time, and with respect to Continuing Employees, no vesting acceleration shall occur by reason of the Merger or any subsequent event, such as termination of employment (unless specifically set forth in a Benefits Waiver, an Equity Agreement, the Change of Control Policy and/or the 2001 Stock Plan). Therefore, shares of Acquiror Common Stock otherwise issuable and cash otherwise payable pursuant to clause (ii) of Section 1.9(a) in exchange for such Unvested Company Shares ("***Unvested Acquiror Stock***" and "***Unvested Acquiror Cash***", respectively) shall not automatically be issuable or payable by Acquiror at the First Effective Time, and shall instead become issuable or payable by Acquiror on the date that such Unvested Company Shares would have become vested under the vesting schedule (including any applicable acceleration terms) in place for such shares immediately prior to or at the Effective Time (subject to the restrictions and other terms of such vesting schedule), less (in the case of Unvested Acquiror Cash) any amount of such newly vested cash which vests in escrow in accordance with Section 1.10(c)(iii). For administrative convenience, Acquiror may in its discretion make all such required issuances or payments to holders of Unvested Acquiror Stock and Unvested Acquiror Cash no later than the 15th day of the calendar month immediately following the calendar month in which such Unvested Acquiror Stock and Unvested Acquiror Cash becomes vested, and in its discretion may make such issuances or payments through an agent authorized by Acquiror to administer such issuances on Acquiror's behalf. All amounts issuable or payable pursuant to this Section 1.9(a)(iii) shall be subject to any required withholding of Taxes and shall be paid without interest.

A portion of such newly vested cash so paid will be treated as imputed interest to the extent required under the Code and the regulations promulgated thereunder. At the First Effective Time, all outstanding rights to repurchase Unvested Company Shares that the Company may hold immediately prior to the First Effective Time (all such rights, the "***Repurchase Rights***") shall be assigned to Acquiror in the First Merger, without any action required on the part of any Person, and shall thereafter be exercisable by Acquiror upon the same terms and subject to the same conditions that were in effect immediately prior to the First Effective Time, except that Repurchase Rights may be exercised by Acquiror retaining either the Unvested Acquiror Stock or Unvested Acquiror Cash (as the case may be) into which such Unvested Company Shares have been converted, and paying to the former holder thereof the repurchase price in effect for each such Unvested Company Share subject to that Repurchase Right immediately prior to the First Effective Time. No Unvested Acquiror Stock or Unvested Acquiror Cash, or the right thereto, may be pledged, encumbered, sold, assigned or transferred (including any transfer by operation of law), by any Person, other than Acquiror, or be taken or reached by any legal or equitable process in satisfaction of any Liability of such Person, prior to the issuance or payment to such Person of such Unvested Acquiror Stock or Unvested Acquiror Cash following the vesting thereof, in accordance with this Agreement.

(iv) Company Options Held by Continuing Employees. At the First Effective Time, each Company Option (including each New Company Option) held by a Continuing Employee that is unexpired, unexercised and outstanding immediately prior to the First Effective Time shall, on the terms and subject to the conditions set forth in this Agreement, be assumed and converted by Acquiror in accordance with Section 5.13. As set forth in Section 5.13, each assumed Company Option that immediately prior to the First Effective Time was not fully vested shall be subject to the same vesting arrangements that were applicable to such Company Option immediately prior to or at the First Effective Time, and no vesting acceleration of these options shall occur by reason of the Merger or any subsequent event, such as termination of employment (unless specifically set forth in a Benefits Waiver, an Equity Agreement, the Change of Control Policy, and/or the 2001 Stock Plan).

(v) Company Options Held by Non-Continuing Employees. No Company Options held by Persons that are not Continuing Employees ("***Non-Continuing Employees***"), whether vested or unvested, shall be assumed by Acquiror in the First Merger. At the First Effective Time, each Company Option held by a Non-Continuing Employee which has not been exercised prior to such time will be (by virtue of the First Merger, and without any further action on the part of any holder thereof) cancelled and extinguished.

(vi) Company Warrants. At the First Effective Time, each Company Warrant that does not by its terms terminate as of or immediately prior to the First Effective Time and is unexpired, unexercised and outstanding immediately prior to the First Effective Time shall, on the terms and subject to the conditions set forth in this Agreement, be assumed and converted by Acquiror in accordance with Section 5.13.

(vii) Capital Stock of Ibiza Sub. Each share of capital stock of Ibiza Sub that is issued and outstanding immediately prior to the First Effective Time will, by virtue of the First Merger and without further action on the part of the sole stockholder of Ibiza Sub, be converted into and become one share of Company Common Stock (and the shares of the Company into which the shares of Ibiza Sub capital stock are so converted shall be the only shares of the Company's capital stock that are issued and outstanding immediately after the First Effective Time). Each certificate evidencing ownership of shares of Ibiza Sub capital stock will evidence ownership of such shares of Company Common Stock.

(viii) Total Merger Consideration. Notwithstanding anything to the contrary contained in this Agreement, in no event shall the aggregate consideration paid by Acquiror to the Company Securityholders (including the value of the shares of Acquiror Common Stock that will be

subject to Company Options (other than New Company Options) assumed by Acquiror at the First Effective Time), based on the Acquiror Stock Price exceed the Total Merger Consideration.

(b) Treatment of Company Capital Stock Owned by the Company and Acquiror. At the First Effective Time, all shares of Company Capital Stock that are owned by the Company as treasury stock immediately prior to the First Effective Time (but not any shares of Company Capital Stock held in the PostX Escrow Fund (as defined in Section 8.3(c)) by a third party escrow agent or other nominee of the Company) shall be canceled and extinguished without any conversion thereof, and each share of Company Capital Stock owned by Acquiror or any direct or indirect wholly-owned subsidiary of Acquiror immediately prior to the First Effective Time, shall be converted into the right to receive the consideration under Section 1.9(a) hereunder.

(c) Adjustments. In the event of any stock split, reverse stock split, stock dividend (including any dividend or distribution of securities convertible into capital stock), reorganization, reclassification, combination, recapitalization or other like change with respect to the Company Capital Stock or Acquiror Common Stock occurring after the Agreement Date and prior to the First Effective Time, all references in this Agreement to specified numbers of shares of any class or series affected thereby, and all calculations provided for that are based upon numbers of shares of any class or series (or trading prices therefor) affected thereby, shall be equitably adjusted to the extent necessary to provide the parties the same economic effect as contemplated by this Agreement prior to such stock split, reverse stock split, stock dividend, reorganization, reclassification, combination, recapitalization or other like change.

(d) Appraisal Rights. Notwithstanding anything contained herein to the contrary, any Dissenting Shares shall not be converted into the right to receive the consideration amounts provided for in Section 1.9(a), but shall instead be converted into the right to receive such consideration as may be determined to be due with respect to any such Dissenting Shares pursuant to California Law and/or Delaware Law. Each holder of Dissenting Shares who, pursuant to the provisions of California Law and/or Delaware Law, becomes entitled to payment thereunder for such shares shall receive payment therefor in accordance with California Law and/or Delaware Law (but only after the value therefor shall have been agreed upon or finally determined pursuant to such provisions). If, after the First Effective Time, any Dissenting Shares shall lose their status as Dissenting Shares, then any such shares shall immediately be converted into the right to receive the consideration payable pursuant to Section 1.9(a) in respect of such shares as if such shares never had been Dissenting Shares, and Acquiror shall issue and deliver to the holder thereof, at (or as promptly as reasonably practicable after) the applicable time or times specified in Section 1.10(c), following the satisfaction of the applicable conditions set forth in Section 1.10(c), the amount of consideration to which such holder would be entitled in respect thereof under this Section 1.9 as if such shares never had been Dissenting Shares and instead constituted Stock Election Shares. The Company shall give Acquiror (i) prompt notice of any demands for appraisal or purchase received by the Company, withdrawals of such demands, and any other instruments served pursuant to California Law and/or Delaware Law and received by the Company and (ii) the right to direct all negotiations and proceedings with respect to demands for purchase under California Law and/or Delaware Law. The Company shall not, except with the prior written consent of Acquiror, or as otherwise required under California Law and/or Delaware Law, voluntarily make any payment or offer to make any payment with respect to, or settle or offer to settle, any claim or demand in respect of any Dissenting Shares. The payout of consideration under this Agreement to the stockholders of the Company (other than to holders of Dissenting Shares who shall be treated as provided in this Section 1.9(d) and under California Law and/or Delaware Law) shall not be affected by the exercise or potential exercise of appraisal rights or dissenters' rights under California Law and/or Delaware Law by any other stockholder of the Company.

(e) Rights Not Transferable. The rights of the Company Securityholders as of immediately prior to the First Effective Time are personal to each such securityholder and shall not be transferable for any reason otherwise than by operation of law, will or the laws of descent and distribution. Any attempted transfer of such right by any holder thereof (otherwise than as permitted by the immediately preceding sentence) shall be null and void.

(f) Fractional Shares. No fraction of a share of Acquiror Common Stock shall be issued in connection with the First Merger, but in lieu thereof each holder of shares of Company Capital Stock who would otherwise be entitled to a fraction of a share of Acquiror Common Stock (after aggregating for each particular stock certificate representing Stock Election Shares all fractional shares of Acquiror Common Stock to be received by such holder) shall receive from Acquiror an amount of cash (rounded to the nearest whole cent) equal to the product of (i) such fraction and (ii) the Acquiror Stock Price.

(g) Second Merger. At the Second Effective Time, (i) each share of Company Common Stock that is issued and outstanding immediately prior to the Second Effective Time shall be shall be cancelled and extinguished without any conversion thereof, and (ii) each share of common stock of Eivissa Sub that is issued and outstanding immediately prior to the Second Effective Time will continue to constitute one validly issued, fully paid and nonassessable share of common stock of the Surviving Corporation. Such shares of common stock shall be the only shares of capital stock of the Surviving Corporation that are issued and outstanding immediately after the Second Effective Time.

1.10 Surrender of Certificates.

(a) Exchange Agent. Acquiror's transfer agent, Computershare Trust Company, Inc., shall act as exchange agent (the "***Exchange Agent***") in the Merger.

(b) Acquiror to Cause Deposit of Consideration. As soon as reasonably practicable (but in no event later than 20 Business Days) after the Closing Date, Acquiror shall make available to the Exchange Agent for exchange in accordance with this Article I, through such reasonable procedures as Acquiror may adopt, (i) the shares of Acquiror Common Stock and cash issuable pursuant to Section 1.9(a), less the Escrow Cash to be deposited into an escrow fund in connection herewith pursuant to the provisions of Section 1.10(c) and Article VIII and (ii) cash in an amount sufficient to permit payment of cash in lieu of any related fractional shares pursuant to Section 1.9(f); provided, however, that any shares of Unvested Acquiror Stock or Unvested Acquiror Cash that are subject to vesting and/or repurchase rights or other restrictions, including without limitation under a Benefits Waiver and/or Equity Agreement, shall be withheld by Acquiror or an agent of Acquiror (and reflected in book entry form in the case of Unvested Acquiror Stock) for delivery following the lapse of such vesting and/or repurchase rights or other restrictions.

(c) Exchange Procedures.

(i) The Company shall mail to every holder of record of Company Capital Stock that was issued and outstanding immediately prior to the First Effective Time: (A) a letter of transmittal in the form supplied by Acquiror (the "***Letter of Transmittal***"); and (B) instructions for use of the Letter of Transmittal in effecting the surrender of certificates or instruments which represented issued and outstanding Company Capital Stock that were converted into the right to receive shares of Acquiror Common Stock (and cash in lieu of fractional shares) and cash pursuant to Section 1.9(a) (the "***Certificates***") in exchange for certificates (or book entries in the case of shares of Unvested Acquiror Stock that are subject to vesting and/or repurchase rights or other restrictions) representing such shares of Acquiror Common Stock (and cash in lieu of fractional shares) and cash. Provided that Acquiror shall

have provided a copy of such form of Letter of Transmittal to the Company, such mailing of the Letters of Transmittal shall take place concurrently with the mailing of the Information Statement (as defined in Section 5.1(a)) to the Company Stockholders (or with respect to Persons who become Company Stockholders thereafter, as soon as reasonably practicable thereafter). The Letter of Transmittal shall specify that delivery of Certificates shall be effected, and risk of loss and title to Certificates shall pass, only upon receipt thereof by the Exchange Agent, together with a properly completed and duly executed Letter of Transmittal, duly executed on behalf of each Person effecting the surrender of such Certificates, and shall be in such form and have such other provisions as Acquiror or the Exchange Agent may reasonably specify, including that the Effective Time Holders agree to be bound by the provisions of Section 1.10(c) and Article VIII of this Agreement.

(ii) As soon as reasonably practicable after the date of delivery to the Exchange Agent (or to such other agent or agents as may be appointed by Acquiror) of a Certificate, together with a properly completed and duly executed Letter of Transmittal and any other documentation required thereby: (A) the holder of record of such Certificate for Stock Election Shares shall be entitled to receive a certificate (or a book entry in the case of shares of Acquiror Unvested Stock that are subject to vesting and/or repurchase rights or other restrictions) representing the number of whole shares of Acquiror Common Stock that such holder has the right to receive pursuant to Section 1.9(a) in respect of such Certificate (and a check representing any related payment in lieu of fractional shares that such holder has the right to receive pursuant to Section 1.9(f) in respect to such Certificate), and Escrow Cash will be deposited into escrow on such holder's behalf pursuant to Section 1.10(c)(iii); (B) the holder of record of such Certificate for Cash Election Shares shall be entitled to receive a check representing the cash amount that such holder has the right to receive pursuant to Section 1.9(a) in respect of such Certificate (less any Unvested Acquiror Cash), and Escrow Cash will be deposited into escrow on such holder's behalf pursuant to Section 1.10(c)(iii); and (C) such Certificate shall be canceled.

(iii) As soon as reasonably practicable (but in no event later than 20 Business Days) after the Closing Date, Acquiror shall cause to be deposited with the Escrow Agent, the Escrow Cash. The Escrow Cash shall be withheld from the cash payable pursuant to Section 1.9(a) to the Effective Time Holders according to each Effective Time Holder's Pro Rata Share. If an Effective Time Holder holds Unvested Company Shares as of immediately prior to the First Effective Time, then the Escrow Cash so withheld shall, to the maximum extent possible, be vested cash not subject to any repurchase rights or other restrictions, and any Unvested Acquiror Cash so placed in escrow shall vest prior to any Unvested Acquiror Cash not placed in escrow. The Escrow Cash shall constitute partial security for the indemnification obligations of such Effective Time Holders pursuant to Article VIII, and shall be held in escrow and distributed from escrow in accordance with the provisions of the Escrow Agreement.

(d) Distributions With Respect to Unexchanged Shares. No dividends or other distributions with respect to Acquiror Common Stock with a record date after the First Effective Time shall be paid to the holder of any unsurrendered Certificate as of such record date with respect to the shares of Acquiror Common Stock issuable to such holder in exchange for such Certificate until the applicable delivery requirements with respect to such Certificate as set forth in Section 1.10(c) shall have been satisfied. Subject to applicable law, and subject to satisfaction of the applicable delivery requirements with respect to such Certificate set forth in Section 1.10(c), there shall be paid to the record holder of the whole shares of Acquiror Common Stock issued in exchange for such Certificate, without interest, as soon as reasonably practicable after the time of the satisfaction of such delivery requirements, the amount of any such dividends or other distributions with a record date after the First Effective Time theretofore payable (but for the provisions of this Section 1.10(d)) with respect to such shares of Acquiror Common Stock.

(e) Transfers of Ownership. If any certificate for shares of Acquiror Common Stock is to be issued in a name other than that in which the Certificate surrendered in exchange therefor is registered, it shall be a condition of the issuance thereof that the Certificate so surrendered shall be properly endorsed and otherwise in proper form for transfer and that the person requesting such exchange shall have paid to Acquiror or any agent designated by it any transfer or other Taxes required by reason of the issuance of a certificate for shares of Acquiror Common Stock in any name other than that of the registered holder of the Certificate surrendered, or established to the satisfaction of Acquiror or any agent designated by it that such Tax has been paid or is not payable.

(f) No Liability. Notwithstanding anything to the contrary in this Section 1.10, none of the Exchange Agent, the Surviving Corporation or any party hereto shall be liable to any person for any amount properly paid to a public official pursuant to any applicable abandoned property, escheat or similar law.

(g) Unclaimed Shares. Any portion of funds (including any interest earned thereon) or certificates for shares of Acquiror Common Stock held by the Exchange Agent which have not been delivered to any holders of Certificates pursuant to this Article I within three months after the First Effective Time shall promptly be paid or delivered, as appropriate, to Acquiror, and thereafter each holder of a Certificate who has not theretofore complied with the exchange procedures set forth in and contemplated by Section 1.10(c) shall look only to Acquiror (subject to abandoned property, escheat and similar laws) for its claim for shares of Acquiror Common Stock (and any cash in lieu of fractional shares of Acquiror Common Stock and any dividends or distributions (with a record date after the First Effective Time) with respect to Acquiror Common Stock) and cash to which it is entitled. Notwithstanding anything to the contrary contained herein, if any Certificate has not been surrendered prior to the date on which the merger consideration contemplated by Section 1.9 in respect of such Certificate would otherwise escheat to or become the property of any Governmental Entity, any amounts payable in respect of such Certificate shall, to the extent permitted by applicable law, become the property of Acquiror, free and clear of all claims or interests of any Person previously entitled thereto.

1.11 No Further Ownership Rights in the Company Capital Stock, Company Warrants or Company Options. All consideration paid or payable following the surrender for exchange of shares of Company Capital Stock, Company Options or Company Warrants in accordance with the terms hereof shall be so paid or payable in full satisfaction of all rights pertaining to such shares of Company Capital Stock, such Company Options and such Company Warrants, and there shall be no further registration of transfers on the records of the Company of shares of Company Capital Stock, Company Options or Company Warrants which were issued and outstanding immediately prior to the First Effective Time. If, after the First Effective Time, any Certificate is presented to the Company or the Surviving Corporation for any reason, such Certificate shall be canceled and exchanged as provided in this Article I.

1.12 Lost, Stolen or Destroyed Certificates. In the event any Certificate shall have been lost, stolen or destroyed, the Exchange Agent shall issue in exchange for such Certificate, following the making of an affidavit of that fact by the record holder thereof, such consideration as may be required pursuant to Section 1.9 in respect of such Certificate; provided, however, that Acquiror or the Exchange Agent may, in its good faith discretion and as a condition precedent to the issuance thereof, require the record holder of such Certificate to deliver a bond in such sum or execute an indemnification agreement as Acquiror or the Exchange Agent may reasonably direct as indemnity against any claim that may be made against Acquiror, the Company, the Surviving Corporation, the Exchange Agent and/or any of their respective representatives or agents with respect to such Certificate.

1.13 Tax Consequences.

(a) It is intended by the parties hereto that the Merger shall constitute a "reorganization" within the meaning of Section 368(a) of the Code. However, Acquiror makes no representations or warranties to the Company or to any holder of Company Capital Stock, Company Options or Company Warrants that the Merger will qualify as a tax-free "reorganization" under the Code. Acquiror has not taken and will not take any action inconsistent with Acquiror's representations to tax counsel set forth on Exhibit J-1.

(b) Subject to the last sentence in Section 1.13(a), Acquiror makes no representations or warranties to the Company regarding the Tax treatment of the Merger, or any of the Tax consequences to the Company of this Agreement, the Merger or any of the other transactions or agreements contemplated hereby. Subject to the last sentence in Section 1.13(a), Acquiror makes no representations or warranties to any holder of Company Capital Stock, Company Options or Company Warrants regarding the Tax treatment of the Merger, or any of the Tax consequences to any holder of Company Capital Stock, Company Options or Company Warrants of this Agreement, the Merger or any of the other transactions or agreements contemplated hereby. The Company acknowledges that the Company and the holders of Company Capital Stock, Company Options and Company Warrants are relying solely on their own Tax advisors in connection with this Agreement, the Merger and the other transactions and agreements contemplated hereby.

1.14 Withholding Rights. Acquiror, the Company, the Surviving Corporation and the Exchange Agent shall be entitled to deduct and withhold from the consideration otherwise deliverable under this Agreement, and from any other payments otherwise required pursuant to this Agreement, to any holder of any shares of Company Capital Stock, any Company Options or any Company Warrants such amounts as Acquiror, the Company, the Surviving Corporation or the Exchange Agent is required to deduct and withhold with respect to any such deliveries and payments under the Code or any provision of applicable Tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been delivered and paid to such holders in respect of which such deduction and withholding was made.

1.15 Taking of Necessary Action; Further Action. If, at any time after the Second Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Corporation with full right, title and interest in, to and under, and/or possession of, all assets, property, rights, privileges, powers and franchises of the Company, the officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of the Company or otherwise, to take all lawful action necessary or desirable to accomplish such purpose or acts, so long as such action is not inconsistent with this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to the disclosures set forth in the disclosure letter of the Company delivered to Acquiror concurrently with the parties' execution of this Agreement (the "***Company Disclosure Letter***") (each of which disclosures, in order to be effective, shall clearly indicate the Section and, if applicable, the Subsection of this Article II to which it relates (unless and only to the extent the relevance to other representations and warranties is readily apparent from the actual text of the disclosures), and each of which disclosures shall also be deemed to be representations and warranties made by the Company to Acquiror under this Article II), the Company represents and warrants to Acquiror as follows:

2.1 Organization, Standing and Power. Each of the Company and each Subsidiary is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each of the Company and each Subsidiary has the corporate power to own its properties and to conduct its business as now being conducted and as currently proposed by it to be conducted and is duly qualified to do business and is in good standing in each jurisdiction where the failure to be so qualified and in good standing, individually or in the aggregate with any such other failures, would reasonably be expected to be material to the Company. Neither the Company nor any Subsidiary is in violation of any of the provisions of its Certificate of Incorporation or Bylaws or equivalent organizational or governing documents. Schedule 2.1 of the Company Disclosure Letter sets forth a true, correct and complete list of each Subsidiary. The Company is the owner of all of the issued and outstanding shares of capital stock of each Subsidiary, free and clear of all Encumbrances, and all such shares are duly authorized, validly issued, fully paid and nonassessable and are not subject to any preemptive right or right of first refusal created by statute, the Certificate of Incorporation and Bylaws or other equivalent organizational or governing documents, as applicable, of such Subsidiary or any Contract to which such Subsidiary is a party or by which it is bound. There are no outstanding subscriptions, options, warrants, "put" or "call" rights, exchangeable or convertible securities or other Contracts of any character relating to the issued or unissued capital stock or other securities of any Subsidiary, or otherwise obligating the Company or any Subsidiary to issue, transfer, sell, purchase, redeem or otherwise acquire or sell any such securities. The Company does not directly or indirectly own any equity or similar interest in, or any interest convertible or exchangeable or exercisable for, any equity or similar interest in, any Person, other than the Subsidiaries listed in Schedule 2.1 of the Company Disclosure Letter.

2.2 Capital Structure.

(a) The authorized capital stock of the Company consists solely of (i) 120,000,000 shares of Company Common Stock, and (ii) 79,167,285 shares of Company Preferred Stock of which 5,386,676 shares are designated as Series A Preferred Stock, 30,756,236 shares are designated as Series B Preferred Stock, 21,941,039 shares are designated as Series C Preferred Stock and 21,083,334 shares are designated as Series D Preferred Stock. A total of 22,761,366 shares of Company Common Stock, 5,386,676 shares of Company Series A Stock, 30,195,679 shares of Company Series B Stock, 21,674,372 shares of Company Series C Stock and 18,875,001 shares of Company Series D Stock are issued and outstanding as of the Agreement Date. The Company holds no treasury shares. As of the Agreement Date, there are no other issued and outstanding shares of capital stock or other securities of the Company and no outstanding commitments or Contracts to issue any shares of capital stock or other securities of the Company other than pursuant to the exercise of outstanding Company Options under the Company Option Plans and outstanding Company Warrants. Schedule 2.2(a)-1 of the Company Disclosure Letter accurately sets forth, as of the Agreement Date, the name of each Person that is the registered owner of any shares of Company Common Stock, Company Series A Stock, Company Series B Stock, Company Series C Stock or Company Series D Stock and the number of such shares so owned by such Person, and the number of shares of Company Common Stock that would be owned by such Person assuming conversion of all shares of Company Preferred Stock so owned by such Person giving effect to all anti-dilution and similar adjustments. All issued and outstanding shares of Company Capital Stock are duly authorized, validly issued, fully paid and non-assessable and are free of any Encumbrances, preemptive rights, rights of first refusal or "put" or "call" rights created by statute, the Certificate of Incorporation or Bylaws of the Company or any Contract to which the Company is a party or by which the Company is bound. All issued and outstanding shares of Company Capital Stock were issued in material compliance with all applicable Legal Requirements and all material requirements set forth in applicable Contracts. Schedule 2.2(a)-2 of the Company Disclosure Letter sets forth a true, correct and complete list (which Schedule 2.2(a)-2 shall be a subset of Schedule 2.2(a)-1 of the Company Disclosure Letter) of all holders of any issued and outstanding Unvested Company Shares, including whether the holder is an employee or non-employee (and if a non-employee, a description of the relationship between each such holder and the

Company), the number and kind of shares of Company Capital Stock unvested as of the date of this Agreement, the purchase price paid per share, the vesting schedule in effect for such Unvested Company Shares (including the vesting commencement date), the repurchase price payable per unvested share and the length of the repurchase period following the holder's termination of service. There is no liability for dividends accrued and unpaid by the Company. The Company is not under any obligation to register under the Securities Act any shares of Company Capital Stock or any other securities of the Company, whether currently outstanding or that may subsequently be issued. To the knowledge of the Company, no entity that is a Company Stockholder has any limited partners who are employees of Acquiror.

(b) As of the Agreement Date, the Company has reserved 30,999,427 shares of Company Common Stock for issuance to employees, non-employee directors and consultants pursuant to the Company Option Plans, of which 17,747,870 shares are subject to outstanding and unexercised Company Options, and 446,137 shares remain available for issuance thereunder. Schedule 2.2(b)-1 of the Company Disclosure Letter sets forth, as of the Agreement Date, a true, correct and complete list of all holders of outstanding Company Options, whether or not granted under the Company Option Plans, including the number of shares of Company Common Stock subject to each such option, the number of vested shares of Company Common Stock subject to each such option, the number of unvested shares of Company Common Stock subject to each such option, the date of grant, the vesting commencement date, the exercise or vesting schedule (and the terms of any acceleration thereof), the exercise price per share, the Tax status of such option under Section 422 of the Code, the term of each such option and the plan from which such option was granted. Only in the event that the New Company Options have been granted on or prior to the Agreement Date, Schedule 2.2(b)-2 of the Company Disclosure Letter sets forth, as of the Agreement Date, the same information as set forth in the preceding sentence with respect to the New Company Options authorized for issuance to Continuing Employees. In addition, Schedule 2.2(b)-3 of the Company Disclosure Letter sets forth a true, correct and complete list (which schedule shall be a subset of Schedule 2.2(b)-1 of the Company Disclosure Letter) of all holders of outstanding Company Options that are held by Persons that are not employees of the Company or any Subsidiary (including non-employee directors, consultants, advisory board members, vendors, service providers or other similar persons), including a description of the relationship between each such Person and the Company.

(c) Schedule 2.2(c) of the Company Disclosure Letter sets forth, as of the Agreement Date, a true, correct and complete list of all holders of outstanding Company Warrants, including the number of shares and type of Company Capital Stock subject to each such warrant, the date of grant, the exercise or vesting schedule (and the terms of any acceleration thereof), the exercise price per share and the term of each such warrant.

(d) No bonds, debentures, notes or other indebtedness of the Company or any of its Subsidiaries (i) granting the holder thereof the right to vote on any matters on which stockholders may vote (or which is convertible into, or exchangeable for, securities having such right) or (ii) the value of which is any way based upon or derived from capital or voting stock of the Company, is issued or outstanding as of the Agreement Date (collectively, "***Company Voting Debt***").

(e) Except for the Company Options described in Schedule 2.2(b)-1 and Schedule 2.2(b)-2 of the Company Disclosure Letter and Company Warrants described in Schedule 2.2(c) of the Company Disclosure Letter, there are no options, warrants, calls, rights or Contracts of any character to which the Company is a party or by which it is bound obligating the Company to issue, deliver, sell, repurchase or redeem, or cause to be issued, delivered, sold, repurchased or redeemed, any shares of any Company Capital Stock, options, warrants or other rights to purchase shares of Company Capital Stock or other securities of the Company, or any Company Voting Debt, or obligating the Company to grant, extend, accelerate the vesting and/or repurchase rights of, change the price of, or

otherwise amend or enter into any such option, warrant, call, right or Contract. There are no Contracts relating to voting, purchase or sale of any Company Capital Stock (i) between or among the Company and any of its securityholders, other than written contracts granting the Company the right to purchase unvested shares upon termination of employment or service, and (ii) to the knowledge of the Company, between or among any of the Company's securityholders. Neither the Company Option Plan nor any Contract of any character to which the Company and/or any Subsidiary is a party to or by which the Company and/or any Subsidiary is bound relating to any Company Options or Unvested Company Shares requires or otherwise provides for any accelerated vesting of any Company Options or Unvested Company Shares in connection with the Merger or any other transaction contemplated by this Agreement or upon termination of employment or service with the Company or with Acquiror or any Subsidiary, or any other event, before, upon or following the Merger or otherwise. True, correct and complete copies of each Company Option Plan and forms of all agreements and instruments relating to or issued under each Company Option Plan have been delivered to Acquiror's counsel, and such plans and Contracts have not been amended, modified or supplemented since being delivered to Acquiror's counsel, and, except as contemplated in this Agreement, there are no agreements, understandings or commitments to amend, modify or supplement such plans or Contracts in any case from those delivered to Acquiror's counsel.

(f) The Spreadsheet will accurately set forth, as of the Closing Date and immediately prior to the First Effective Time, the name of each Person that is the registered owner of any shares of Company Capital Stock and/or Company Options and/or Company Warrants and the number and kind of such shares so owned, or subject to Company Options and/or Company Warrants so owned, by such Person. As of the Closing, no other Person not disclosed in the Spreadsheet will have a right to acquire any shares of Company Capital Stock and/or Company Options and/or Company Warrants from the Company. In addition, the shares of Company Capital Stock and/or Company Options and/or Company Warrants disclosed in the Spreadsheet will be, as of the Closing, free and clear of any Encumbrances created by the Certificate of Incorporation or Bylaws of the Company or any Contract to which the Company is a party or by which it is bound (other than Permitted Encumbrances and except as contemplated by this Agreement).

2.3 Authority; Noncontravention.

(a) Subject to approval of the Merger and adoption of this Agreement by the Company Stockholders, the Company has all requisite corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, have been duly authorized by the Company Board. This Agreement has been duly executed and delivered by the Company and constitutes the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject only to the effect, if any, of (i) applicable bankruptcy and other similar laws affecting the rights of creditors generally and (ii) rules of law governing specific performance, injunctive relief and other equitable remedies. The Company Board, by resolutions duly adopted (and not thereafter modified or rescinded) by the unanimous vote of the Company Board, has approved and adopted this Agreement and approved the Merger, determined that this Agreement and the terms and conditions of the Merger and this Agreement are advisable and in the best interests of the Company and its stockholders, and directed that the adoption of this Agreement be submitted to the Company stockholders for consideration and recommended that all of the stockholders of the Company adopt this Agreement. The affirmative votes of (i) the holders of a majority of the outstanding shares of Company Common Stock and Company Preferred Stock (voting together as a single voting class on an as-converted to Company Common Stock basis), (ii) the holders of a majority of the outstanding shares of Company Common Stock (voting as a separate voting class) and (iii) the holders of a majority of the outstanding shares of Company Preferred Stock (voting as a separate voting class on an as-converted to Company Common Stock basis), are the only votes of the holders of the Company Capital Stock necessary to adopt

this Agreement and approve the Merger (the "***Company Stockholder Approval***"). The affirmative vote of the Company Stockholders listed on Exhibit A-1 pursuant to the Company Voting Agreements is sufficient for the Company Stockholder Approval.

(b) The execution and delivery of this Agreement by the Company does not, and the consummation of the transactions contemplated hereby will not, (i) result in the creation of any Encumbrance on any of the material properties or assets of the Company or any Subsidiary or to the knowledge of the Company, any of the shares of Company Capital Stock or (ii) conflict with, or result in any violation of or default under (with or without notice or lapse of time, or both), or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any benefit under, or require any consent, approval or waiver from any Person pursuant to, (A) any provision of the Certificate of Incorporation or Bylaws or other equivalent organizational or governing documents of the Company or any Subsidiary, in each case as amended to date, (B) assuming the transactions contemplated hereby constitute an assignment, any Contract of the Company or any Subsidiary or any Contract applicable to any of their respective material properties or assets, or (C) any Legal Requirements applicable to the Company or any Subsidiary or any of their respective material properties or assets.

(c) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to the Company or any Subsidiary in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except for (i) the filing of the First Certificate of Merger and Second Certificate of Merger, as provided in Section 1.5, (ii) such filings and notifications as may be required to be made by the Company in connection with the Merger under the HSR Act and applicable foreign antitrust laws and the expiration or early termination of applicable waiting periods under the HSR Act and applicable foreign antitrust laws, and (iii) the filing of the Permit Application (as such term is defined in Section 5.1(a)) with the California Commissioner (as such term is defined in Section 5.1(a)), and (iv) such other consents, authorizations, filings, approvals, notices and registrations which, if not obtained or made, would not be material to the Company or Acquiror and would not prevent, materially alter or delay any of the transactions contemplated by this Agreement.

(d) The Company and the Company Board and the Company Stockholders have taken all actions such that the restrictive provisions of any "fair price," "moratorium," "control share acquisition," "business combination," "interested shareholder" or other similar anti-takeover statute or regulation, and any anti-takeover provision in the governing documents of the Company or its Subsidiaries will not be applicable to any of the Company, its Subsidiaries, Acquiror, the Surviving Corporation, or to the execution, delivery of, or performance of the transactions contemplated by this Agreement or the Company Voting Agreements (including irrevocable proxies), including the consummation of the Merger or any of the other transactions contemplated hereby or thereby.

2.4 Financial Statements.

(a) The Company has delivered to Acquiror its consolidated financial statements for each fiscal year and interim fiscal period subsequent to the Company's inception date (including, in each case, balance sheets, statements of operations and statements of cash flows) (collectively, the "***Financial Statements***"), which are included as Schedule 2.4(a) of the Company Disclosure Letter. The Financial Statements (i) are derived from and in accordance with the books and records of the Company, (ii) complied as to form in all material respects with applicable accounting requirements with respect thereto as of their respective dates, (iii) have been prepared in accordance with GAAP (except that the unaudited Financial Statements do not contain footnotes) applied on a consistent basis throughout the periods indicated and consistent with each other, (iv) fairly present the consolidated financial condition of the Company and the Subsidiaries at the dates therein indicated and the consolidated results of operations

and cash flows of the Company and the Subsidiaries for the periods therein specified (subject, in the case of unaudited interim period financial statements, to normal recurring year-end audit adjustments, none of which individually or in the aggregate will be material in amount), and (v) are true, complete and correct in all material respects. Neither the Company nor any Subsidiary has any Liabilities of any nature other than (i) those set forth or adequately provided for in the Balance Sheet included in the Financial Statements as of November 30, 2006 (the "***Company Balance Sheet***"), (ii) those incurred in the conduct of the Company's business since November 30, 2006 (the "***Company Balance Sheet Date***") in the ordinary course, consistent with past practice, which are of the type that ordinarily recur and, individually or in the aggregate, are not material in nature or amount and do not result from any breach of Contract, tort or violation of law, and (iii) those incurred by the Company in connection with the execution of this Agreement. Except for Liabilities reflected in the Financial Statements, the Company has no off balance sheet Liabilities of any nature to, or any financial interest in, any third party or entities, the purpose or effect of which is to defer, postpone, reduce or otherwise avoid or adjust the recording of debt expenses incurred by the Company. All reserves that are set forth in or reflected in the Company Balance Sheet have been established in accordance with GAAP consistently applied and are adequate.

(b) The Company has established and maintains a system of internal accounting controls sufficient to provide reasonable assurances (i) that transactions, receipts and expenditures of the Company and its Subsidiaries are being executed and made only in accordance with appropriate authorizations of management and the Company Board, (ii) that transactions are recorded as necessary (A) to permit preparation of financial statements in conformity with GAAP and (B) to maintain accountability for assets, (iii) regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of the Company and its Subsidiaries, and (iv) that the amount recorded for assets on the books and records of the Company is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Neither the Company nor any of its Subsidiaries, nor to the Company's knowledge, any current or former auditor, employee, consultant or director of the Company or any of its Subsidiaries, has identified or been made aware of any fraud, whether or not material, that involves the Company's management or other current or former employees, consultants or directors of the Company or any of its Subsidiaries who have a role in the preparation of financial statements or the internal accounting controls utilized by the Company or its Subsidiaries, or any claim or allegation regarding any of the foregoing. Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any director, officer, employee, auditor, accountant or representative of the Company or any of its Subsidiaries has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, in each case, regarding deficient accounting or auditing practices, procedures, methodologies or methods of the Company or any of its subsidiaries or their respective internal accounting controls or any material inaccuracy in the Company's financial statements. No attorney representing the Company or any of its Subsidiaries, whether or not employed by the Company or any of its Subsidiaries, has reported to the Company Board or any committee thereof or to any director or officer of the Company evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by the Company, its Subsidiaries or any of their respective officers, directors, employees or agents. At the Company Balance Sheet Date, there were no material loss contingencies (as such term is used in Statement of Financial Accounting Standards No. 5 ("***Statement No. 5***") issued by the Financial Accounting Standards Board in March 1975) that are not adequately provided for in the Company Balance Sheet as required by said Statement No. 5. There has been no change in the Company accounting policies since the Company's inception, except as described in the Financial Statements.

(c) Schedule 2.4(c) of the Company Disclosure Letter sets forth the names and locations of all banks, trust companies, savings and loan associations and other financial institutions at which the Company and its Subsidiaries maintain accounts of any nature and the names of all persons authorized to draw thereon or make withdrawals therefrom.

(d) Schedule 2.4(d) of the Company Disclosure Letter accurately lists all indebtedness of Company and its Subsidiaries, for money borrowed, whether short- or long-term ("***Company Debt***"), including, for each item of Company Debt, the agreement governing the Company Debt and the interest rate, maturity date and any assets or properties securing such Company Debt. Except as described in Schedule 2.4(d), all Company Debt may be prepaid at the Closing without penalty, and without any termination payment, under the terms of the Contracts governing such Company Debt.

2.5 Absence of Certain Changes. Since the Company Balance Sheet Date, each of the Company and each Subsidiary has conducted its business only in the ordinary course consistent with past practice and:

(a) there has not occurred a Material Adverse Effect on the Company;

(b) neither the Company nor any Subsidiary has made or entered into any Contract or letter of intent with respect to any acquisition, sale or transfer of any asset of the Company or any Subsidiary (other than the sale or nonexclusive license of Company Products (as defined in Section 2.10(a)(vi)) to its customers in the ordinary course of its business consistent with its past practice);

(c) except as required by GAAP, there has not occurred any change in accounting methods or practices (including any change in depreciation or amortization policies or rates or revenue recognition policies) by the Company or any Subsidiary or any revaluation by the Company of any of its or any Subsidiary's assets;

(d) there has not occurred any declaration, setting aside, or payment of a dividend or other distribution with respect to any securities of the Company, or any direct or indirect redemption, purchase or other acquisition by the Company of any of its securities (other than repurchases of Unvested Company Shares in accordance with Contracts governing such shares), or any change in any rights, preferences, privileges or restrictions of any of its outstanding securities;

(e) neither the Company nor any Subsidiary has entered into (other than Contracts set forth on Schedule 2.18 of the Company Disclosure Letter), amended or terminated any Material Contract, and there has not occurred any default under any Material Contract (as hereinafter defined) to which the Company or any Subsidiary is a party or by which it is, or any of its assets and properties are, bound;

(f) there has not occurred any amendment or change to the Certificate of Incorporation or Bylaws or other equivalent organizational or governing documents of the Company or any Subsidiary;

(g) there has not occurred any increase in or material modification of the compensation or benefits payable or to become payable by the Company or any Subsidiary to any of its directors, officers, employees or consultants (other than increases in the base salaries of employees who are not officers in an amount that does not exceed 10% of such base salaries), any material modification of any "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code and applicable guidance thereunder, or any new loans or extension of existing loans to any such Persons (other than routine expense advances to employees of the Company or any Subsidiary consistent with past practice), and neither the Company nor any Subsidiary has entered into any Contract to grant or provide (nor has granted any) severance, acceleration of vesting or other similar benefits to any such Persons;

(h) there has not occurred the execution of any employment agreements or service Contracts or the extension of the term of any existing employment agreement or service Contract with any Person in the employ or service of the Company or any Subsidiary (other than employment offer letters and service Contracts executed in the ordinary course of business that are terminable by the Company upon no more than 30 days notice without cost or liability);

(i) there has not occurred any change in title, office or position, or material reduction in the responsibilities of, or change in identity with respect to the management, supervisory or other key personnel of the Company or any Subsidiary, any termination of employment of any such employees, or any labor dispute or claim of unfair labor practices involving the Company or any Subsidiary;

(j) neither the Company nor any Subsidiary has incurred, created or assumed any Encumbrance (other than a Permitted Encumbrance) on any of its assets or properties, any Liability for borrowed money or any Liability as guaranty or surety with respect to the obligations of any other Person;

(k) neither the Company nor any Subsidiary has paid or discharged any Encumbrance or Liability which was not shown on the Company Balance Sheet or incurred in the ordinary course of business consistent with past practice since the Company Balance Sheet Date;

(l) neither the Company nor any Subsidiary has incurred any Liability to its directors, officers or stockholders (other than Liabilities to pay compensation or benefits in connection with services rendered in the ordinary course of business, consistent with past practice);

(m) neither the Company nor any Subsidiary has made any deferral of the payment of any accounts payable other than in the ordinary course of business, consistent with past practice, or in an amount in excess of $50,000, or given any discount, accommodation or other concession other than in the ordinary course of business, consistent with past practice, in order to accelerate or induce the collection of any receivable;

(n) neither the Company nor any Subsidiary has made any material change in the manner in which it extends discounts, credits or warranties to customers or otherwise deals with its customers;

(o) there has been no material damage, destruction or loss, whether or not covered by insurance, affecting the assets, properties or business of the Company or any Subsidiary;

(p) neither the Company nor any Subsidiary has sold, disposed of, transferred or licensed to any Person any rights to any Company IP Rights (as defined in Section 2.10(a)(ii)) other than in the ordinary course of business consistent with past practice, or has acquired or licensed from any Person any Intellectual Property (as defined in Section 2.10(a)(i)) (other than "shrink wrap" and similar generally available commercial end-user licenses to software that is not redistributed with the Company Products that have an individual acquisition cost of $5,000 or less) or sold, disposed of, transferred or provided a copy of any Company Source Code (as defined in Section 2.10(a)(vii)) to any Person; and

(q) there has not occurred any announcement of, any negotiation by or any entry into any Contract by the Company or any Subsidiary to do any of the things described in the preceding clauses (a) through (p) (other than negotiations and agreements with Acquiror and its representatives regarding the transactions contemplated by this Agreement).

2.6 Litigation. There is no private or governmental action, suit, proceeding, claim, mediation, arbitration or investigation pending before any Governmental Entity, or, to the knowledge of the Company, threatened against the Company or any Subsidiary or any of their respective assets or properties or any of their respective directors, officers or employees (in their capacities as such or relating to their employment, services or relationship with the Company or any of its Subsidiaries), nor, to the knowledge of the Company, is there any reasonable basis for any such action, suit, proceeding, claim, mediation, arbitration or investigation. There is no judgment, decree, injunction or order against the Company or any Subsidiary, any of their respective assets or properties, or, to the knowledge of the Company, any of their respective directors, officers or employees (in their capacities as such or relating to their employment, services or relationship with the Company or any of its Subsidiaries). To the knowledge of the Company, there is no reasonable basis for any Person to assert a claim against the Company or any Subsidiary based upon the Company entering into this Agreement or any of the other transactions or agreements contemplated hereby. Neither the Company nor any Subsidiary has any action, suit, proceeding, claim, mediation, arbitration or investigation pending against any other Person.

2.7 Restrictions on Business Activities. There is no Contract, judgment, injunction, order or decree binding upon the Company or any Subsidiary which has or would reasonably be expected to have, whether before or after consummation of the Merger, the effect of prohibiting or impairing any current or presently proposed business practice of the Company or any Subsidiary, any acquisition of property by the Company or any Subsidiary or the conduct of business by the Company or any Subsidiary as currently conducted or as presently proposed to be conducted by the Company or any Subsidiary.

2.8 Compliance with Laws; Governmental Permits.

(a) Each of the Company and each Subsidiary has complied in all material respects with, is not in material violation of, and has not received any notices of violation with respect to, any Legal Requirement with respect to the conduct of its business, or the ownership or operation of its business. Neither the Company nor any of its Subsidiaries, nor any director, officer, Affiliate or employee thereof (in their capacities as such or relating to their employment, services or relationship with the Company or any of its Subsidiaries), has given, offered, paid, promised to pay or authorized payment of any money, any gift or anything of value, with the purpose of influencing any act or decision of the recipient in his or her official capacity or inducing the recipient to use his or her influence to affect an act or decision of a government official or employee, to any (i) governmental official or employee, (ii) political party or candidate thereof, or (iii) Person while knowing that all or a portion of such money or thing of value would be given or offered to a governmental official or employee or political party or candidate thereof.

(b) Each of the Company and each Subsidiary has obtained each federal, state, county, local or foreign governmental consent, license, permit, grant, or other authorization of a Governmental Entity (i) pursuant to which the Company or any Subsidiary currently operates or holds any interest in any of its assets or properties or (ii) that is required for the operation of the Company's or any Subsidiary's business or the holding of any such interest (all of the foregoing consents, licenses, permits, grants, and other authorizations, collectively, the "***Company Authorizations***"), and all of the Company Authorizations are in full force and effect. Neither the Company nor any Subsidiary has received any notice or other communication from any Governmental Entity regarding (A) any actual or possible violation of law or any Company Authorization or any failure to comply with any term or requirement of any Company Authorization or (B) any actual or possible revocation, withdrawal, suspension, cancellation, termination or modification of any Company Authorization. None of the Company Authorizations will be terminated or impaired, or will become terminable, in whole or in part, as a result of the consummation of the transactions contemplated by this Agreement.

2.9 Title to Property and Assets. Each of the Company and each Subsidiary has good and valid title to all of their respective properties, and interests in properties and assets, real and personal, reflected on the Company Balance Sheet or acquired after the Company Balance Sheet Date (except properties and assets, or interests in properties and assets, sold or otherwise disposed of since the Company Balance Sheet Date in the ordinary course of business consistent with past practice), or, with respect to leased properties and assets, valid leasehold interests in such properties and assets which afford the Company valid leasehold possession of the properties and assets that are the subject of such leases, in each case, free and clear of all Encumbrances, except (a) Permitted Encumbrances incurred in the ordinary course of business consistent with past practice for obligations not past due, (b) such imperfections of title and non-monetary Encumbrances as do not and will not detract from or interfere with the use of the properties subject thereto or affected thereby, or otherwise impair business operations involving such properties in any material respect, and (c) liens securing indebtedness that is reflected on the Company Balance Sheet. The plant, property and equipment of each of the Company and each Subsidiary that are used in the operations of their respective businesses are (i) in good operating condition and repair, subject to normal wear and tear and (ii) not obsolete or in need of renewal or replacement, except for renewal or replacement in the ordinary course of business, consistent with past practice. All properties used in the operations of the Company or any Subsidiary are reflected on the Company Balance Sheet to the extent required under GAAP to be so reflected. Schedule 2.9 of the Company Disclosure Letter identifies each parcel of real property leased by the Company or any Subsidiary. The Company and its Subsidiaries have adequate rights of ingress and egress into any real property used in the operation of their respective businesses as currently conducted. The Company has heretofore delivered to Acquiror's counsel true, correct and complete copies of all leases, subleases and other agreements under which the Company and/or any Subsidiary uses or occupies or has the right to use or occupy, now or in the future, any real property or facility, including all modifications, amendments and supplements thereto. Neither the Company nor any Subsidiary currently owns any real property.

2.10 Intellectual Property.

(a) As used in this Agreement, the following terms shall have the meanings indicated below:

(i) "***Intellectual Property***" means any and all worldwide industrial and intellectual property rights and all rights associated therewith, including all patents and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof, all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, proprietary information, know how, technology, technical data, proprietary processes and formulae, algorithms, specifications, customer lists and supplier lists, all industrial designs and any registrations and applications therefor, all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefor, Internet domain names, Internet and World Wide Web URLs or addresses, all copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto, all mask works, mask work registrations and applications therefor, and any equivalent or similar rights in semiconductor masks, layouts, architectures or topology, all computer software, including all source code, object code, firmware, development tools, files, records and data, all schematics, netlists, test methodologies, test vectors, emulation and simulation tools and reports, hardware development tools, and all rights in prototypes, breadboards and other devices, all databases and data collections and all rights therein, all moral and economic rights of authors and inventors, however denominated, and any similar or equivalent rights to any of the foregoing, and all tangible embodiments of the foregoing.

(ii) "***Company IP Rights***" means (A) any and all Intellectual Property used in the conduct of the business of the Company and its Subsidiaries as currently conducted or as currently

proposed to be conducted by the Company or any Subsidiary; and (B) any and all other Intellectual Property owned by the Company and its Subsidiaries.

(iii) "***Company-Owned IP Rights***" means (A) Company IP Rights that are owned or are purportedly owned by or exclusively licensed to the Company or any of its Subsidiaries; and (B) Company IP Rights that were developed for the Company or a Subsidiary by full or part time employees or consultants of the Company or its Subsidiaries (where title to such developed Company IP Rights has not been previously transferred by the Company to a third party).

(iv) "***Company Registered Intellectual Property***" means all United States, international and foreign: (A) patents and patent applications (including provisional applications); (B) registered trademarks, applications to register trademarks, intent-to-use applications, or other registrations or applications related to trademarks; (C) registered Internet domain names; (D) registered copyrights and applications for copyright registration; and (E) any other Intellectual Property that is the subject of an application, certificate, filing, registration or other document issued, filed with, or recorded by any governmental authority owned by, registered or filed in the name of, the Company or any of its Subsidiaries.

(v) "***Third Party Intellectual Property Rights***" means any Intellectual Property owned by a third party.

(vi) "***Company Products***" means all products or services produced, marketed, licensed, sold, distributed or performed by or on behalf of the Company or any Subsidiary and all products or services currently under development by the Company or any Subsidiary.

(vii) "***Company Source Code***" means any software source code, or material proprietary information or algorithm contained in any software source code, the binary versions of which are used or included in, any Company Products.

(b) The Company and its Subsidiaries (i) own and have independently developed or acquired, or (ii) have the valid right or license to all Company IP Rights. The Company IP Rights are sufficient for the conduct of the business of the Company and its Subsidiaries as currently conducted and as currently proposed to be conducted by the Company or any Subsidiary.

(c) Neither the Company nor any of its Subsidiaries has transferred ownership of any Intellectual Property that is or was Company-Owned IP Rights, to any third party, or knowingly permitted the Company's rights in any Intellectual Property that is or was Company-Owned IP Rights to enter the public domain or, with respect to any Intellectual Property for which the Company or its Subsidiaries have submitted an application or obtained a registration, lapse (other than through the expiration of registered Intellectual Property at the end of its maximum statutory term).

(d) The Company and its Subsidiaries own and have good and exclusive title to each item of Company-Owned IP Rights (other than Company-Owned IP Rights that are exclusively licensed to the Company or its Subsidiaries) and each item of Company Registered Intellectual Property, free and clear of any Encumbrances (other than Permitted Encumbrances). The right, license and interest of the Company or a Subsidiary of the Company in and to all Third Party Intellectual Property Rights licensed by the Company or a Subsidiary from a third party are to the knowledge of the Company, free and clear of all Encumbrances (excluding restrictions contained in the applicable license agreements with such third parties and Permitted Encumbrances).

(e) Neither the execution and delivery or effectiveness of this Agreement nor the performance of the Company's obligations under this Agreement will cause the forfeiture or termination of, or give rise to a right of forfeiture or termination of any Company-Owned IP Right, or impair the right of the Company, any Subsidiary or Acquiror to use, possess, sell or license any Company-Owned IP Right or portion thereof. After the Closing, all Company-Owned IP Rights will be fully transferable, alienable or licensable by Acquiror without restriction and without payment of any kind to any third party.

(f) Schedule 2.10(f) of the Company Disclosure Letter lists all generally commercially available Company Products by name and version number.

(g) Schedule 2.10(g) of the Company Disclosure Letter lists all Company Registered Intellectual Property including the jurisdictions in which each such item of Intellectual Property has been issued or registered or in which any application for such issuance and registration has been filed, or in which any other filing or recordation of such item of Intellectual Property has been made. Schedule 2.10(g) of the Company Disclosure Letter sets forth a list of all actions that are required to be taken by the Company or its Subsidiaries within 120 days of the Agreement Date with respect to any of the Company Registered Intellectual Property in order to avoid prejudice to, impairment or abandonment of such Company Registered Intellectual Property.

(h) Each item of Company Registered Intellectual Property (other than applications) is valid and subsisting (or in the case of applications, applied for), all registration, maintenance and renewal fees currently due in connection with such Company Registered Intellectual Property have been paid and all documents, recordations and certificates in connection with such Company Registered Intellectual Property currently required to be filed have been filed with the relevant patent, copyright, trademark or other authorities in the United States or foreign jurisdictions, as the case may be, for the purposes of prosecuting, maintaining and perfecting such Company Registered Intellectual Property and recording the Company's and its Subsidiaries' ownership interests therein.

(i) Neither the Company nor any Subsidiary is or shall be as a result of the execution and delivery or effectiveness of this Agreement or the performance of the Company's obligations under this Agreement, in breach of any Contract to which the Company or any Subsidiary is a party governing any Company IP Rights (the "***Company IP Rights Agreements***") and the consummation of the transactions contemplated by this Agreement will not result in the modification, cancellation, termination, suspension of, or acceleration of any payments with respect to the Company IP Rights Agreements, or give any non-Company party to any Company IP Rights Agreement the right to do any of the foregoing. Following the Closing, the Surviving Corporation (as wholly-owned by Acquiror) will be permitted to exercise all of the Company's and its Subsidiaries' rights under the Company IP Rights Agreements to the same extent the Company and its Subsidiaries would have been able to had the transactions contemplated by this Agreement not occurred and without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments which the Company or any of its Subsidiaries would otherwise be required to pay.

(j) None of the Company IP Rights Agreements grants any third party exclusive rights to or under any Company IP Rights or grants any third party the right to sublicense any Company IP Rights.

(k) There are no royalties, honoraria, fees or other payments payable by the Company or any of its Subsidiaries to any Person (other than salaries payable to employees, consultants and independent contractors not contingent on or related to use of their work product) as a result of the