IVANHOE MINES LTD
Form 6-K
November 14, 2011

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SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549
FORM 6-K
REPORT OF FOREIGN PRIVATE ISSUER
PURSUANT TO RULE 13a-16 OR 15d-16 OF
THE SECURITIES EXCHANGE ACT OF 1934
From: November 14, 2011
IVANHOE MINES LTD.

(Translation of Registrant s Name into English)

Suite 654 999 CANADA PLACE, VANCOUVER, BRITISH COLUMBIA V6C 3E1

(Address of Principal Executive Offices)

(Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.)

Form 20-F- o Form 40-F- þ

(Indicate by check mark whether the registrant by furnishing the information contained in this form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.)

Yes: o No: þ

(If Yes is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): 82-_____.)

Enclosed:
Q3-2011 Financial Statement
Q3-2011 MD&A
CEO Certification
CFO Certification

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THIRD QUARTER REPORT
SEPTEMBER 30, 2011

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IVANHOE MINES LTD.
Consolidated Balance Sheets
(Stated in thousands of U.S. dollars)

(Unaudited)	**September 30, 2011**	December 31, 2010
ASSETS		
CURRENT		
Cash and cash equivalents (Note 4)	**$ 1,410,255**	$ 1,264,031
Short-term investments (Note 5)	**9,998**	98,373
Accounts receivable	**104,512**	65,741
Inventories (Note 6)	**86,626**	40,564
Prepaid expenses	**101,276**	23,338
TOTAL CURRENT ASSETS	**1,712,667**	1,492,047
LONG-TERM INVESTMENTS (Note 7)	**144,376**	151,191
OTHER LONG-TERM INVESTMENTS (Note 8)	**294,873**	191,816
PROPERTY, PLANT AND EQUIPMENT (Note 10)	**3,414,239**	1,332,648
DEFERRED INCOME TAXES	**30,657**	16,889
OTHER ASSETS	**41,984**	33,883
TOTAL ASSETS	**$ 5,638,796**	$ 3,218,474
LIABILITIES		
CURRENT		
Accounts payable and accrued liabilities	**$ 496,028**	$ 260,528
Amounts due under credit facilities (Note 11)	**14,118**	14,615
Interest payable on long-term debt (Note 12)	**9,326**	6,312
Rights offering derivative liability (Note 13 (c))		766,238
TOTAL CURRENT LIABILITIES	**519,472**	1,047,693
CONVERTIBLE CREDIT FACILITY (Note 12)	**152,627**	248,284
AMOUNTS DUE UNDER CREDIT FACILITIES (Note 11)	**38,084**	40,080
PAYABLE TO RELATED PARTY	**42,804**	14,013
DEFERRED INCOME TAXES	**11,573**	11,123
ASSET RETIREMENT OBLIGATIONS	**40,355**	40,838
TOTAL LIABILITIES	**804,915**	1,402,031
CONTINGENCIES (Note 20)		
EQUITY		

APPROVED BY THE BOARD:

/s/ D. Korbin	/s/ L. Mahler
D. Korbin, Director	L. Mahler, Director

The accompanying notes are an integral part of these consolidated financial statements.

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IVANHOE MINES LTD.
Consolidated Statements of Operations
(Stated in thousands of U.S. dollars, except for share and per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
(Unaudited)	**2011**	2010	**2011**	2010
REVENUE	**$ 60,491**	$ 6,597	**$ 127,985**	$ 38,182
COST OF SALES				
Production and delivery	**(40,997)**	(5,975)	**(84,571)**	(28,073)
Depreciation and depletion	**(9,991)**	(1,027)	**(20,521)**	(5,854)
Write-down of carrying value of inventory	**(3,061)**	(7,855)	**(18,936)**	(14,390)
COST OF SALES	**(54,049)**	(14,857)	**(124,028)**	(48,317)
EXPENSES				
Exploration (Note 2 and 13 (a))	**(79,558)**	(48,131)	**(194,360)**	(159,037)
General and administrative (Note 13 (a))	**(21,390)**	(15,005)	**(66,151)**	(38,052)
Depreciation	**(837)**	(252)	**(2,052)**	(1,522)
Accretion of asset retirement obligations	**(176)**	(51)	**(510)**	(142)
Write-down of carrying values of property, plant and equipment		(1,764)		(1,764)
TOTAL EXPENSES	**(156,010)**	(80,060)	**(387,101)**	(248,834)
OPERATING LOSS	**(95,519)**	(73,463)	**(259,116)**	(210,652)
OTHER INCOME (EXPENSES)				
Interest income	**5,320**	3,772	**15,371**	10,939
Interest expense	**(1,935)**	(6,280)	**(9,618)**	(27,957)
Accretion of convertible credit facilities (Note 12)	**(15)**	(3,034)	**(43)**	(11,696)
Foreign exchange (losses) gains	**(35,552)**	5,334	**(30,149)**	2,145
Unrealized (losses) gains on long-term investments (Note 7 (d))	**(2,374)**	1,363	**(2,683)**	(3,849)
Unrealized gains on other long-term investments	**729**	2,019	**2,124**	3,528
Realized gain on redemption of other long-term investments (Note 8 (a))	**9**	34	**107**	121
Change in fair value of derivative (Note 13 (c))			**(432,536)**	
Change in fair value of embedded derivatives (Note 12)	**62,058**	49,772	**95,699**	120,633
Loss on conversion of convertible credit facility (Note 12)				(154,316)
Write-down of carrying value of long-term investments (Note 7)	**(928)**	(68)	**(928)**	(485)
Gain on sale of long-term investment (Note 7 (e))			**10,628**	
Gain on settlement of note receivable (Note 9)	**102,995**		**102,995**	
	2,925		**2,925**	

Net recovery on derecognition of property, plant and equipment								
INCOME (LOSS) BEFORE INCOME TAXES AND OTHER ITEMS		**37,713**		(20,551)		**(505,224)**		(271,589)
(Provision) recovery of income taxes		**(6,884)**		3,782		**1,731**		5,956
Share of (loss) income of significantly influenced investees (Note 7)		**(19,341)**		(8,503)		**21,789**		(31,713)
NET INCOME (LOSS) FROM CONTINUING OPERATIONS		**11,488**		(25,272)		**(481,704)**		(297,346)
(LOSS) INCOME FROM DISCONTINUED OPERATIONS (Note 3)		**(9,105)**				**(9,105)**		6,585
NET INCOME (LOSS)		**2,383**		(25,272)		**(490,809)**		(290,761)
NET LOSS ATTRIBUTABLE TO NONCONTROLLING INTERESTS (Note 15)		**4,950**		411		**6,246**		42,004
NET INCOME (LOSS) ATTRIBUTABLE TO IVANHOE MINES LTD.	**$**	**7,333**	$	(24,861)	**$**	**(484,563)**	$	(248,757)
BASIC EARNINGS (LOSS) PER SHARE ATTRIBUTABLE TO IVANHOE MINES LTD. FROM								
CONTINUING OPERATIONS	**$**	**0.02**	$	(0.05)	**$**	**(0.71)**	$	(0.53)
DISCONTINUED OPERATIONS		**(0.01)**				**(0.01)**		0.01
	$	**0.01**	$	(0.05)	**$**	**(0.72)**	$	(0.52)
DILUTED EARNINGS (LOSS) PER SHARE ATTRIBUTABLE TO IVANHOE MINES LTD. FROM								
CONTINUING OPERATIONS	**$**	**0.02**	$	(0.05)	**$**	**(0.71)**	$	(0.53)
DISCONTINUED OPERATIONS		**(0.01)**				**(0.01)**		0.01
	$	**0.01**	$	(0.05)	**$**	**(0.72)**	$	(0.52)
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING (000 s) (Note 1 (f))								
BASIC		**721,757**		523,379		**667,941**		480,766
DILUTED		**729,506**		523,379		**667,941**		480,766

The accompanying notes are an integral part of these consolidated financial statements.

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IVANHOE MINES LTD.
Consolidated Statements of Equity
(Stated in thousands of U.S. dollars, except for share amounts)

	Share Capital				Accumulated			
			Share	Additional	Other			
	Number		Purchase	Paid-In	Comprehensive Income		Noncontrolling	
(Unaudited)	of Shares	Amount	Warrants	Capital	(Loss)	Deficit	Interests	Total
Balances, December 31, 2010	568,560,669	$ 3,378,921	$ 11,832	$ 1,303,581	$ 33,075	$ (2,913,576)	$ 2,610	$ 1,816,443
Net loss						(484,563)	(6,246)	(490,809)
Other comprehensive loss (Note 14)					(39,675)		(7,079)	(46,754)
Comprehensive loss								(537,563)
Shares issued for:								
Exercise of stock options	2,083,150	29,328		(11,991)				17,337
Rights Offering (Note 13 (c)), net of issue costs of $27,311	84,867,671	2,346,277		5,711				2,351,988
Exercise of share purchase warrants (Note 13 (b)), net of issue costs of $1,065	55,122,253	512,347	(11,832)					500,515
Exercise of subscription right (Note 13 (b))	27,896,570	535,908						535,908
Bonus shares	4,527	120		6,169				6,289
Share purchase plan	18,489	469						469
Other increase in noncontrolling interests (Note							36,057	36,057

15)								
Dilution gains				28,839				28,839
Stock-based compensation				77,599				77,599
Balances, September 30, 2011	738,553,329	$ 6,803,370	$	$ 1,409,908	$ (6,600)	$ (3,398,139)	$ 25,342	$ 4,833,881

The accompanying notes are an integral part of these consolidated financial statements.

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IVANHOE MINES LTD.
Consolidated Statements of Cash Flows
(Stated in thousands of U.S. dollars)

	Three Months Ended September 30,		Nine Months Ended September 30,	
(Unaudited)	**2011**	2010	**2011**	2010
OPERATING ACTIVITIES				
Cash used in operating activities (Note 16)	**$ (124,456)**	$ (42,635)	**$ (310,501)**	$ (141,770)
INVESTING ACTIVITIES				
Proceeds from sale of discontinued operations				6,442
Purchase of short-term investments			**(20,657)**	
Purchase of long-term investments	**(8,673)**	(11,075)	**(17,210)**	(24,100)
Purchase of other long-term investments			**(145,000)**	(80,000)
Proceeds from redemption of short-term investments	**4,979**		**108,970**	15,000
Proceeds from sale of long-term investments			**14,000**	1,800
Proceeds from redemption of other long-term investments	**15,018**	57	**45,199**	201
Proceeds from redemption of note receivable	**102,995**		**102,995**	
Expenditures on property, plant and equipment	**(718,835)**	(222,843)	**(1,849,104)**	(430,698)
Proceeds from (expenditures on) other assets	**54**	(143)	**(12,641)**	(190)
Cash used in investing activities	**(604,462)**	(234,004)	**(1,773,448)**	(511,545)
FINANCING ACTIVITIES				
Issue of share capital	**539,282**	11,265	**2,207,442**	457,403
Repayment of credit facilities	**(1,685)**	(354)	**(138)**	(785)
Noncontrolling interests reduction of investment in subsidiaries	**(10,611)**	(2,529)	**(28,844)**	(2,529)
Noncontrolling interests investment in subsidiaries	**85,039**	233,930	**89,728**	655,071
Cash provided by financing activities	**612,025**	242,312	**2,268,188**	1,109,160
EFFECT OF EXCHANGE RATE CHANGES ON CASH	**(47,931)**	19,971	**(38,015)**	18,451
NET CASH (OUTFLOW) INFLOW	**(164,824)**	(14,356)	**146,224**	474,296
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	**1,575,079**	1,454,475	**1,264,031**	965,823
CASH AND CASH EQUIVALENTS, END OF PERIOD	**$ 1,410,255**	$ 1,440,119	**$ 1,410,255**	$ 1,440,119

CASH AND CASH EQUIVALENTS IS COMPRISED OF:				
Cash on hand and demand deposits	**$ 665,777**	$ 693,173	**$ 665,777**	$ 693,173
Short-term money market instruments	**744,478**	746,946	**744,478**	746,946
	$ 1,410,255	$ 1,440,119	**$ 1,410,255**	$ 1,440,119

Supplementary cash flow information (Note 16)

The accompanying notes are an integral part of these consolidated financial statements.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

1. SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of preparation

These unaudited interim consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP). The accounting policies followed in preparing these consolidated financial statements are those used by Ivanhoe Mines Ltd. (the Company) as set out in the audited consolidated financial statements for the year ended December 31, 2010.

Certain information and note disclosures normally included for annual consolidated financial statements prepared in accordance with U.S. GAAP have been omitted. These interim consolidated financial statements should be read together with the audited consolidated financial statements of the Company for the year ended December 31, 2010.

In the opinion of management, all adjustments considered necessary (including reclassifications and normal recurring adjustments) to present fairly the financial position, results of operations and cash flows at September 30, 2011 and for all periods presented, have been included in these financial statements. The interim results are not necessarily indicative of results for the full year ending December 31, 2011, or future operating periods. For further information, see the Company s annual consolidated financial statements, including the accounting policies and notes thereto.

The Company has three operating segments, its development division located in Mongolia, its coal division located in Mongolia, and its exploration division with projects located primarily in Australia and Mongolia.

References to Cdn$ refer to Canadian currency, Aud$ to Australian currency, and $ to United States currency.

(b) Basis of presentation

For purposes of these consolidated financial statements, the Company, subsidiaries of the Company, and variable interest entities for which the Company is the primary beneficiary, are collectively referred to as Ivanhoe Mines .

(c) Comparative figures

In February 2011, the Company completed a rights offering which was open to all shareholders on a dilution free, equal participation basis at a subscription price less than the fair value of a common share of the Company (Note 13 (c)). In accordance with the Financial Accounting Standards Board Accounting Standards Codification (ASC) guidance for earnings per share, basic and diluted loss per share for all periods prior to the rights offering have been adjusted retroactively for a bonus element contained in the rights offering. Specifically, the weighted average number of common shares outstanding used to compute basic and diluted loss per share for the three and nine months ended September 30, 2010 has been multiplied by a factor of 1.06.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

1. SIGNIFICANT ACCOUNTING POLICIES (Continued)

(d) Accounting changes

In January 2010, the ASC guidance for fair value measurements and disclosures was updated to require additional disclosures related to transfers in and out of level 1 and 2 fair value measurements and enhanced detail in the level 3 reconciliation. The updated guidance clarified the level of disaggregation required for assets and liabilities and the disclosures required for inputs and valuation techniques to be used to measure the fair value of assets and liabilities that fall in either level 2 or level 3. The updated guidance was effective for the Company s fiscal year beginning January 1, 2010, except for the level 3 disaggregation which is effective for the Company s fiscal year beginning January 1, 2011. The adoption of the updated guidance had no impact on the Company s consolidated financial position, results of operations or cash flows.

In December 2010, the ASC guidance for business combinations was updated to clarify existing guidance requiring a public entity to disclose pro forma revenue and earnings of the combined entity as though the business combination(s) that occurred during the current year had occurred as of the beginning of the comparable prior annual period only. The update also expands the supplemental pro forma disclosures required to include a description of the nature and amount of material, nonrecurring pro forma adjustments directly attributable to the business combination included in the reported pro forma revenue and earnings. The updated guidance was effective for the Company s fiscal year beginning January 1, 2011. The adoption of the updated guidance had no impact on the Company s consolidated financial position, results of operations or cash flows.

(e) Recent Accounting Pronouncements

In May 2011, the ASC guidance for fair value measurement and disclosure was updated to clarify the Financial Accounting Standards Board s intent on current guidance, modify and change certain guidance and principles, and expand disclosures concerning Level 3 fair value measurements in the fair value hierarchy (including quantitative information about significant unobservable inputs within Level 3 of the fair value hierarchy). In addition, the updated guidance requires disclosure of the fair value hierarchy for assets and liabilities not measured at fair value in the statement of financial position, but whose fair value is required to be disclosed. The updated guidance is effective for the Company s fiscal year beginning January 1, 2012. The Company does not expect the updated guidance to have a material impact on its financial position or results of operations.

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IVANHOE MINES LTD.

Notes to the Consolidated Financial Statements

(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

1. SIGNIFICANT ACCOUNTING POLICIES (Continued)

(e) Recent Accounting Pronouncements (continued)

In June 2011, the ASC guidance on presentation of comprehensive income was updated to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The updated guidance requires an entity to present the components of net income and other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. This update eliminates the option to present the components of other comprehensive income as part of the statement of equity, but does not change the items that must be reported in other comprehensive income. The updated guidance is effective for the Company s fiscal year beginning January 1, 2012. The Company is in the process of assessing which presentation choice it will adopt.

(f) Earnings (loss) per share

The following table reconciles the numerators and the denominators of the basic and diluted earnings (loss) per share computations for net income from continuing operations:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Net income (loss) attributable to Ivanhoe Mines Ltd. from continuing operations	**$ 16,438**	$ (24,861)	**$ (475,458)**	$ (255,342)
Effect of dilutive securities				
None				
Adjusted net income (loss) attributable to Ivanhoe Mines Ltd. from continuing operations	**$ 16,438**	$ (24,861)	**$ (475,458)**	$ (255,342)
Basic weighted average number of shares outstanding	**721,757**	523,379	**667,941**	480,766
Effect of dilutive securities				
Stock options	**7,569**			
Bonus shares	**180**			
	729,506	523,379	**667,941**	480,766

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

1. SIGNIFICANT ACCOUNTING POLICIES (Continued)

(f) Earnings (loss) per share (continued)

The following table lists securities that could potentially dilute basic earnings (loss) per share in the future that were not included in the computation of diluted earnings (loss) per share because to do so would have been antidilutive for the periods presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Share purchase warrants		82,467		82,467
Stock options	**2,755**	19,724	**19,611**	19,724
Bonus shares			**623**	
	2,755	102,191	**20,234**	102,191

2. EXPLORATION EXPENSES

Generally, exploration costs are charged to operations in the period incurred until it has been determined that a property has economically recoverable reserves, at which time subsequent exploration costs and the costs incurred to develop a property are capitalized.

Summary of exploration expenditures by location:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Mongolia				
Oyu Tolgoi [(1)]	**$ 6,381**	$ 14,298	**$ 17,478**	$ 74,308
Coal Division	**21,002**	14,676	**43,622**	35,547
Other Mongolia Exploration	**2,695**	1,393	**5,190**	2,927
	30,078	30,367	**66,290**	112,782
Australia	**47,086**	15,743	**120,470**	41,429
Indonesia	**1,095**	903	**3,592**	2,182
Other	**1,299**	1,118	**4,008**	2,644
	79,558	48,131	**194,360**	159,037

(1) Until March 31, 2010, exploration costs charged to operations included development costs associated with the Oyu Tolgoi Project in Mongolia. On April 1, 2010, Ivanhoe Mines commenced capitalizing Oyu Tolgoi Project development costs. As of this date, reserve estimates for the Oyu Tolgoi Project had been announced and the procedural and administrative conditions contained in the Investment Agreement were satisfied. During the nine months ended September 30, 2011, additions to property, plant and equipment for the Oyu Tolgoi Project totalled $1,931.5 million, which included development costs.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

3. DISCONTINUED OPERATIONS

In February 2005, Ivanhoe Mines sold the Savage River Iron Ore Project in Tasmania, Australia for two initial payments totalling $21.5 million, plus a series of five contingent, annual payments that commenced on March 31, 2006. The annual payments are based on annual iron ore pellet tonnes sold and an escalating price formula based on the prevailing annual Nibrasco/JSM pellet price.

In 2010, Ivanhoe Mines received two payments totalling $6.4 million in relation to the fifth annual contingent payment. The original purchaser of the Savage River Project disputed the estimated $22.1 million remaining balance of the fifth annual contingent payment. In 2010, Ivanhoe Mines initiated arbitration proceedings by filing a Request for Arbitration with the ICC International Court of Arbitration. The arbitration hearing was scheduled to occur in December 2011. Subsequent to September 30, 2011, the parties reached an out-of-court settlement whereby the original purchaser will pay Ivanhoe Mines a reduced balance of $13.0 million by March 31, 2012. Accordingly, Ivanhoe Mines has reduced the carrying value of the contingent receivable as at September 30, 2011 to $13.0 million. The resulting $9.1 million write-down is recognized as a loss from discontinued operations.

To date, Ivanhoe Mines has received $144.4 million in proceeds from the sale.

4. CASH AND CASH EQUIVALENTS

Cash and cash equivalents at September 30, 2011 included SouthGobi Resources Ltd. s (Canada) (57.6% owned) (SouthGobi) balance of $205.8 million (December 31, 2010 $492.0 million) and Ivanhoe Australia Limited s (Australia) (53.6% owned) (Ivanhoe Australia) balance of $111.8 million (December 31, 2010 $59.3 million), which were not available for Ivanhoe Mines general corporate purposes.

5. SHORT-TERM INVESTMENTS

Short-term investments at September 30, 2011 included SouthGobi s balance of $10.0 million (December 31, 2010 $17.5 million) and Ivanhoe Australia s balance of $nil (December 31, 2010 $80.8 million), which were not available for Ivanhoe Mines general corporate purposes.

6. INVENTORIES

	September 30, 2011	December 31, 2010
Stockpiles	**$ 4,070**	$ 3,637
Materials and supplies	**82,556**	36,927
	$ 86,626	$ 40,564

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

7. LONG-TERM INVESTMENTS

	September 30, 2011	December 31, 2010
Investments in companies subject to significant influence:		
Altynalmas Gold Ltd. (a)	**$**	$
Exco Resources N.L. (b)	**51,062**	16,991
Available-for-sale equity securities (c)	**69,528**	103,431
Held-for-trading equity securities (d)	**7,552**	10,235
Other equity securities, cost method (e)	**16,234**	20,534
	$ 144,376	$ 151,191

(a) The Company holds a 50.0% interest in Altynalmas Gold Ltd. (Altynalmas), which owns the Kyzyl Gold Project that hosts the Bakyrchik and Bolshevik gold deposits in Kazakhstan.

	September 30, 2011	December 31, 2010
Amount due from Altynalmas	**$ 118,633**	$ 100,545
Share of equity method losses in excess of common share investment	**(118,633)**	(100,545)
Net investment in Altynalmas	**$**	$

Amounts advanced to Altynalmas bear interest compounded monthly at a rate per annum equal to the one month London Inter-Bank Offered Rate plus 3.0% and are due on demand.

During the nine month period ended September 30, 2011, Ivanhoe Mines recorded a $18.1 million equity method loss (2010 $31.0 million loss) on this investment.

(b) During the nine month period ended September 30, 2011, Ivanhoe Mines recorded a $39.9 million equity method gain (2010 $0.7 million loss) on its investment in Exco Resources N.L. (Exco).

At September 30, 2011, the market value of Ivanhoe Mines 22.6% investment in Exco was $48.3 million (Aud$50.0 million).

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

7. LONG-TERM INVESTMENTS (Continued)

(c) Available-for-sale equity securities

	September 30, 2011				December 31, 2010			
	Equity Interest	**Cost Basis**	**Unrealized (Loss) Gain**	**Fair Value**	Equity Interest	Cost Basis	Unrealized Gain (Loss)	Fair Value
Entrée Gold Inc.	**12.0%**	**$ 19,957**	**$ (1,300)**	**$ 18,657**	12.1%	$ 19,957	$ 27,746	$ 47,703
Aspire Mining Limited (i)	**20.2%**	**22,037**	**26,377**	**48,414**	19.8%	20,280	31,727	52,007
Emmerson Resources Limited	**10.0%**	**2,840**	**(765)**	**2,075**	10.0%	3,636	(304)	3,332
Other		**96**	**286**	**382**		96	293	389
		$ 44,930	**$ 24,598**	**$ 69,528**		$ 43,969	$ 59,462	$ 103,431

(i) During the three month period ended September 30, 2011, Ivanhoe Mines acquired 2,540,812 common shares of Aspire Mining Limited (Aspire) at a cost of $1.3 million.
During the three month period ended March 31, 2011, Ivanhoe Mines acquired 798,139 common shares of Aspire at a cost of $461,000.

(d) Held-for-trading equity securities

As at September 30, 2011, the market value of Ivanhoe Mines 1.5% investment in Kangaroo Resources Limited was $7.6 million, resulting in an unrealized loss of $2.7 million during the nine month period ended September 30, 2011.

(e) Other equity securities, cost method

	September 30, 2011		December 31, 2010	
	Equity Interest	**Cost Basis**	Equity Interest	Cost Basis
Ivanplats Limited (i)	**8.8%**	**$ 16,119**	7.9%	$ 19,491
Ibex Resources Inc. (ii)	**1.6%**	**115**	1.5%	1,043
		$ 16,234		$ 20,534

(i) In January 2011, Ivanhoe Mines sold 1.4 million shares of Ivanplats Limited (formerly Ivanhoe Nickel and Platinum Ltd.) (Ivanplats), a private company, for $14.0 million. This transaction resulted in a gain on sale of $10.6 million.

In March 2011, Ivanhoe Mines converted the remaining Ivanplats special warrants into 2.5 million common shares of Ivanplats for no additional proceeds.

(ii) During the three month period ended September 30, 2011, Ivanhoe Mines recorded an impairment provision of $928,000 against the investment in Ibex Resources Inc. (formerly GoviEx Gold Inc.) based on an assessment of the fair value.

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8. OTHER LONG-TERM INVESTMENTS

	September 30, 2011	December 31, 2010
Long-Term Notes (a)	**$ 30,744**	$ 29,763
Government of Mongolia Treasury Bill (b)	**86,231**	80,394
Government of Mongolia Prepayments (b)	**132,904**	36,486
Money Market investments (c)	**44,994**	45,173
	$ 294,873	$ 191,816

(a) Long-Term Notes

As at September 30, 2011, the Company held $61.1 million (December 31, 2010 $65.0 million) principal amount of Long-Term Notes (received in 2009 upon completion of the Asset-Backed Commercial Paper restructuring) which was recorded at a fair value of $30.7 million. The decrease from December 2010 in principal of $3.9 million was due to the weakening of the Canadian dollar ($2.6 million) and principal redemptions ($1.3 million). The Company has designated the Long-Term Notes as held-for-trading. Accordingly, the Long-Term Notes are recorded at fair value with unrealized holding gains and losses included in earnings.

There is a significant amount of uncertainty in estimating the amount and timing of cash flows associated with the Long-Term Notes. The Company has estimated the fair value of the Long-Term Notes considering information provided on the restructuring, the best available public information regarding market conditions and other factors that a market participant would consider for such investments.

The Company is aware of a limited number of trades in the Long-Term Notes that occurred prior to September 30, 2011, but does not consider them to be of sufficient volume or value to constitute an active market. Accordingly, the Company has not used these trades to determine the fair value of its notes.

The Company has used a discounted cash flow approach to value the Long-Term Notes at September 30, 2011 incorporating the following assumptions:

Bankers Acceptance Rate:	1.12%
Discount Rates:	9% to 25%
Maturity Dates:	5.2 years
Expected Return of Principal:	
A-1 Notes	100%
A-2 Notes	100%
B Notes	10%
C Notes	0%
IA Notes	0%
TA Notes	100%

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8. OTHER LONG-TERM INVESTMENTS (Continued)

(a) Long-Term Notes (continued)

Based on the discounted cash flow model as at September 30, 2011, the fair value of the Long-Term Notes was estimated at $30.7 million. As a result of this valuation, the Company recorded an unrealized trading gain of $2.4 million for the nine month period ended September 30, 2011.

Continuing uncertainties regarding the value of the assets that underlie the Long-Term Notes, the amount and timing of cash flows and changes in general economic conditions could give rise to a further change in the fair value of the Company s investment in the Long-Term Notes, which would impact the Company s results from operations. A 1.0% increase, representing 100 basis points, in the discount rate will decrease the fair value of the Long-Term Notes by approximately $1.4 million.

(b) Government of Mongolia Treasury Bill and Tax Prepayments

On October 6, 2009, Ivanhoe Mines agreed to purchase three Treasury Bills (T-Bills) from the Mongolian Government, having an aggregate face value of $287.5 million, for the aggregate sum of $250.0 million. The annual rate of interest on the T-Bills was set at 3.0%. The initial T-Bill, with a face-value of $115.0 million, was purchased by Ivanhoe Mines on October 20, 2009 for $100.0 million and will mature on October 20, 2014.

However, on March 31, 2010 Ivanhoe Mines agreed to an alternative arrangement for the advancement of funds that would not involve the purchase of the remaining two T-Bills. Specifically, rather than purchasing the second and third remaining T-Bills, with face values of $57.5 million and $115.0 million respectively, Ivanhoe Mines agreed to make two tax prepayments. Tax prepayments of $50.0 million and $100.0 million were made on April 7, 2010 and June 7, 2011 respectively.

The after tax rate of interest on the tax prepayments is 1.59% compounding annually. Unless already off-set fully against Mongolian taxes, the Mongolian Government must repay any remaining tax prepayment balance, including accrued interest, on the fifth anniversary of the date the tax prepayment was made.

The Company has designated the T-Bill and tax prepayments as available-for-sale investments because they were not purchased with the intent of selling them in the near term and the Company s intention to hold them to maturity is uncertain. The fair values of the T-Bill and tax prepayments are estimated based on available public information regarding what market participants would consider for such investments. Changes in the fair value of available-for-sale investments are recognized in accumulated other comprehensive income.

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8. OTHER LONG-TERM INVESTMENTS (Continued)

(b) Government of Mongolia Treasury Bill and Tax Prepayments (continued)

The Company has used a discounted cash flow approach to value the T-Bill and tax prepayments at September 30, 2011 incorporating the following weighted average assumptions:

	T-Bill	Tax Prepayments
Purchased Amount	$ 100,000,000	$ 150,000,000
Discount Rate	9.9%	9.9%
Term	3.1 years	1.8 years

Based on the discounted cash flow models as at September 30, 2011, the fair values of the T-Bill and tax prepayments were estimated at $86.2 million and $132.9 million respectively. As a result of these valuations, Ivanhoe Mines recorded an unrealized gain of $3.7 million on the T-Bill and an unrealized loss of $4.8 million on the tax prepayments in accumulated other comprehensive income for the nine month period ended September 30, 2011.

(c) Money Market Investments

As at September 30, 2011, Ivanhoe Mines held $45.0 million of money market investments with remaining maturities in excess of one year.

9. NOTE RECEIVABLE

In early August 2011, Ivanhoe Mines received $103.0 million as payment for a promissory note from the Monywa Trust.

Ivanhoe Mines transferred the ownership of its former 50% interest in the Monywa Project that was held through its Monywa subsidiary to the independent, third-party Monywa Trust in February 2007. In exchange for the interest, the Monywa Trust issued an unsecured, non-interest-bearing promissory note to a subsidiary of the Company. The sole purpose of the Monywa Trust was to sell the shares of the Monywa subsidiary to one or more arm s-length third parties.

Ivanhoe Mines has held no interest in the Monywa Project, and has had no involvement with the administration and operation of the Monywa Project, since February 2007.

After acquiring Ivanhoe Mines former interest in the Monywa Project, the independent trustee engaged an independent service provider to help the Monywa Trust identify potential buyers. Ivanhoe Mines had no involvement in discussions between the Monywa Trust and its service provider or with potential purchasers or with the ultimate sale of the interest in July 2011.

The receipt of the $103.0 million has been recorded as a gain on settlement of note receivable as the note receivable had a carrying value of $nil.

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10. PROPERTY, PLANT AND EQUIPMENT

	September 30, 2011			December 31, 2010		
	Cost	**Accumulated Depletion and Depreciation, Including Write-downs**	**Net Book Value**	Cost	Accumulated Depletion and Depreciation, Including Write-downs	Net Book Value
Mining plant and equipment						
Ovoot Tolgoi, Mongolia	**$ 11,172**	**$ (2,338)**	**$ 8,834**	$ 10,647	$ (1,428)	$ 9,219
Other mineral property interests						
Oyu Tolgoi, Mongolia	**$ 48,120**	**$ (6,445)**	**$ 41,675**	$ 48,120	$ (6,316)	$ 41,804
Ovoot Tolgoi, Mongolia	**38,536**	**(1,508)**	**37,028**	26,831	(766)	26,065
Australia	**24,985**	**(126)**	**24,859**	25,470	(126)	25,344
Other exploration projects	**1,252**	**(1,244)**	**8**	1,252	(1,244)	8
	$ 112,893	**$ (9,323)**	**$ 103,570**	$ 101,673	$ (8,452)	$ 93,221
Other capital assets						
Oyu Tolgoi, Mongolia	**$ 37,979**	**$ (17,274)**	**$ 20,705**	$ 24,203	$ (14,471)	$ 9,732
Ovoot Tolgoi, Mongolia	**317,914**	**(44,095)**	**273,819**	228,241	(24,154)	204,087
Australia	**49,085**	**(3,726)**	**45,359**	46,785	(2,723)	44,062
Other exploration projects	**4,442**	**(3,545)**	**897**	3,351	(2,573)	778
	$ 409,420	**$ (68,640)**	**$ 340,780**	$ 302,580	$ (43,921)	$ 258,659
Capital works in progress						
Oyu Tolgoi, Mongolia	**$ 2,871,329**	**$**	**$ 2,871,329**	$ 953,581	$	$ 953,581
Ovoot Tolgoi, Mongolia	**80,671**		**80,671**	16,364		16,364
Australia	**9,055**		**9,055**	1,604		1,604
	$ 2,961,055	**$**	**$ 2,961,055**	$ 971,549	$	$ 971,549
	$ 3,494,540	**$ (80,301)**	**$ 3,414,239**	$ 1,386,449	$ (53,801)	$ 1,332,648

11. AMOUNTS DUE UNDER CREDIT FACILITIES

	September 30, 2011	December 31, 2010
Current		
Non-revolving bank loans (a)	**$ 14,118**	$ 14,615
Non-Current		
Two-year extendible loan facility (b)	**$ 38,084**	$ 40,080

(a) In October 2007, Ivanhoe Mines obtained non-revolving bank loans which are due on demand and secured against certain securities and other investments.

(b) In April 2009, Ivanhoe Mines obtained a non-revolving, two-year extendible loan facility. Upon the loan facility s original maturity in October 2010, Ivanhoe Mines elected to utilize the first one-year extension. Ivanhoe Mines has elected to utilize the second one-year extension available to it under the loan facility, extending the loan s maturity to October 2012. The loan facility is secured against certain securities and other investments.

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12. CONVERTIBLE CREDIT FACILITY

	September 30, 2011	December 31, 2010
Principal amount of convertible debenture	**$ 500,000**	$ 500,000
(Deduct) add:		
Bifurcation of embedded derivative liability	**(313,292)**	(313,292)
Accretion of discount	**111**	69
Reduction of carrying amount upon partial conversion	**(93,370)**	(93,370)
Carrying amount of debt host contract	**93,449**	93,407
Embedded derivative liability	**59,178**	154,877
Convertible credit facility	**152,627**	248,284
Accrued interest	**9,326**	6,312
Transaction costs allocated to deferred charges	**(2,799)**	(2,800)
Net carrying amount of convertible debenture	**$ 159,154**	$ 251,796

On November 19, 2009, SouthGobi issued a convertible debenture to a wholly-owned subsidiary of China Investment Corporation (CIC) for $500.0 million. The convertible debenture is secured, bears interest at 8.0% (6.4% payable semi-annually in cash and 1.6% payable annually in shares of SouthGobi) and has a term of 30 years. The financing primarily will support an accelerated investment program in Mongolia and up to $120.0 million of the financing may also be used for working capital, repayment of debt due on funding, general and administrative expense and other general corporate purposes.

Pursuant to the convertible debentures terms, SouthGobi had the right to call for the conversion of up to $250.0 million of the convertible debenture upon SouthGobi achieving a public float of 25.0% of its common shares under certain agreed circumstances. On March 29, 2010, SouthGobi exercised this right and completed the conversion of $250.0 million of the convertible debenture into 21.5 million shares at a conversion price of $11.64 (Cdn$11.88). Also on March 29, 2010, SouthGobi settled the $1.4 million accrued interest payable in shares on the $250.0 million converted by issuing 0.1 million shares at the 50-day VWAP conversion price of $15.97 (Cdn$16.29). On April 1, 2010, SouthGobi settled the outstanding accrued interest payable in cash on the $250.0 million converted with a cash payment of $5.7 million.

As at March 29, 2010, the fair value of the embedded derivative liability associated with the $250.0 million converted was $102.8 million, a decrease of $9.4 million compared to its fair value at December 31, 2009. The $347.6 million fair value of the SouthGobi shares issued upon conversion exceeded the $193.3 million aggregate carrying value of the debt host contract, embedded derivative liability and deferred charges. The difference of $154.3 million was recorded as a loss on conversion of the convertible debenture.

As at September 30, 2011, the fair value of the embedded derivative liability associated with the remaining $250.0 million principal outstanding was determined to be $59.2 million.

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12. CONVERTIBLE CREDIT FACILITY (Continued)

The embedded derivative liability was valued using a Monte Carlo simulation valuation model. A Monte Carlo simulation model is a valuation model that relies on random sampling and is often used when modeling systems with a large number of inputs and where there is significant uncertainty in the future value of inputs and where the movement in the inputs can be independent of each other. Some of the key inputs used by the Monte Carlo simulation include: floor and ceiling conversion prices, risk-free rate of return, expected volatility of SouthGobi s share price, forward Cdn$ exchange rate curves and spot Cdn$ exchange rates.

Assumptions used in the Monte Carlo valuation model are as follows:

	September 30, 2011		December 31, 2010	
Floor conversion price	**Cdn$**	**8.88**	**Cdn$**	8.88
Ceiling conversion price	**Cdn$**	**11.88**	**Cdn$**	11.88
Expected volatility		**72%**		73%
Risk-free rate of return		**2.68%**		3.48%
Spot Cdn$ exchange rate		**0.96**		1.01
Forward Cdn$ exchange rate curve		**0.91 - 0.95**		0.97 - 1.14

During the three and nine months ended September 30, 2011, Ivanhoe Mines capitalized $3.5 million and $6.8 million, respectively, of interest expense incurred on the convertible credit facility.

13. SHARE CAPITAL

(a) Equity Incentive Plan

Stock-based compensation charged to operations was allocated between exploration expenses and general and administrative expenses as follows:

	Three Months Ended September 30,				Nine Months Ended September 30,			
		2011		2010		**2011**		2010
Exploration (i)	**$**	**9,031**	$	6,437	**$**	**27,655**	$	18,691
General and administrative		**6,899**		2,774		**29,211**		7,551
	$	**15,930**	$	9,211	**$**	**56,866**	$	26,242

(i) During the nine months ended September 30, 2011, stock-based compensation of $26.9 million (2010 $3.2 million), relating to the development of the Oyu Tolgoi Project was capitalized as property, plant and equipment (Note 2).

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IVANHOE MINES LTD.
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13. SHARE CAPITAL (Continued)

(a) Equity Incentive Plan (Continued)

Stock-based compensation charged to operations was incurred by Ivanhoe Mines as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Ivanhoe Mines Ltd. (i)	**$ 8,971**	$ 3,606	**$ 35,910**	$ 11,255
SouthGobi Resources Ltd.	**3,646**	3,234	**9,938**	7,927
Ivanhoe Australia Ltd.	**3,313**	2,371	**11,018**	7,060
	$ 15,930	$ 9,211	**$ 56,866**	$ 26,242

(i) During the nine months ended September 30, 2011, 2,164,215 options were exercised, 163,596 options were cancelled and 5,225,923 options were granted. These granted options have a weighted average exercise price of Cdn$18.83, lives of seven years, and vest over periods ranging from grant date to four years. The weighted average grant-date fair value of stock options granted during the nine months ended September 30, 2011 was Cdn$17.30. The fair value of these options was determined using the Black-Scholes option pricing model. The option valuation was based on a weighted average expected life of 3.0 years, risk-free interest rate of 2.09%, expected volatility of 66%, and dividend yield of nil%. During the nine months ended September 30, 2011, stock-based compensation of $26.9 million (2010 $3.2 million), relating to the development of the Oyu Tolgoi Project was capitalized as property, plant and equipment (Note 2).

(b) Rio Tinto Placements

In 2006, the Company and Rio Tinto formed a strategic partnership and entered into a private placement agreement whereby Rio Tinto would invest in Ivanhoe Mines. Since 2006 the parties have entered into a series of agreements pursuant to which Rio Tinto has provided equity and debt financing to Ivanhoe Mines. As a result of these transactions, Rio Tinto holds a significant investment interest in Ivanhoe Mines. These transactions are set out below:

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13. SHARE CAPITAL (Continued)

(b) Rio Tinto Placements (Continued)

(Stated in thousands of U.S. dollars, except for share amounts)

Nature of Investment by Rio Tinto	Period	Number of Shares Acquired [1]	Proceeds/ Transaction Value
Private Placement Tranche 1	2006	37,089,883	$ 303,395
Anti Dilution Shares	2008	243,772	612
Private Placement Tranche 2	2009	46,304,473	388,031
March 2010 Private Placement	2010	15,000,000	240,916
Exercise of Series A Warrants	2010	46,026,522	393,066
Conversion of Convertible Credity Facility	2010	40,083,206	400,832
Exercise of Anti Dilution Warrants	2010	720,203	2,229
Partial exercise of Series B Warrants	2010	33,783,784	300,000
Balance at December 31, 2010		219,251,843	$ 2,029,081
Rights Offering	February 2011	34,387,776	477,302
Exercise of remaining Series B Warrants [2]	June 2011	14,070,182	119,737
Exercise of Anti Dilution Warrants [2]	June 2011	827,706	2,527
Exercise of Series C Warrants [2]	June 2011	40,224,365	379,316
Exercise of Subscription Right [3]	August 2011	27,896,570	535,908
Balance at September 30, 2011		336,658,442	$ 3,543,871

[1] Shares acquired excludes other purchases made by Rio Tinto from third parties.

[2] In June 2011, Ivanhoe Mines received $501.6 million from Rio Tinto following Rio Tinto s decision to exercise all remaining share-purchase warrants that it holds in Ivanhoe Mines. Rio Tinto exercised all the remaining Series B and Series C warrants that it was granted as part of the 2006 and 2007 financing agreements associated with Rio Tinto s original investment in Ivanhoe Mines. Rio Tinto previously had committed to convert all the warrants to shares by January 2012. The additional shares increased Rio Tinto s ownership stake in Ivanhoe Mines from 42.0% to 46.5%.

[3] In August 2011, Ivanhoe Mines received $535.9 million from Rio Tinto following Rio Tinto s decision to exercise the subscription right granted to Rio Tinto as part of the terms of the December 2010 Heads of Agreement between Rio Tinto and Ivanhoe Mines.

As at September 30, 2011, Rio Tinto s equity ownership in the Company was 49.0% (December 31, 2010 40.3%).

(c) Rights Offering

In December 2010, the Company filed a final short form prospectus for a rights offering open to all shareholders on a dilution-free, equal participation basis. In accordance with the terms of the rights offering, each shareholder of record as at December 31, 2010 received one right for each common share held. Every 100 rights held entitled the holder thereof to purchase 15 common shares of the Company at $13.88 per share or Cdn$13.93 per share, at the election of the holder. The rights traded on the TSX, NYSE and

NASDAQ and expired on January 26, 2011.

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13. SHARE CAPITAL (Continued)

(c) Rights Offering (continued)

Upon the closing of the rights offering, the Company issued a total of 84,867,671 common shares for gross proceeds of $1.18 billion. Expenses and fees relating to the rights offering totalled approximately $27.3 million.

Under the terms of the rights offering, the monetary amount to be received by the Company upon the exercise of rights was not fixed. Each holder of rights could elect either the $13.88 or Cdn$13.93 subscription price. Furthermore, the Cdn$13.93 subscription price is not denominated in the Company s U.S. dollar functional currency. Therefore, the pro rata distribution of rights to the Company s shareholders was accounted for as a derivative financial liability measured at fair value.

On December 23, 2010, rights to be issued under the rights offering began trading on a when issued basis. On this date, the Company recognized a derivative financial liability of $901.9 million associated with the Company s legal obligation to carry out the rights offering. Deficit was adjusted by a corresponding amount. Each reporting period the derivative financial liability was remeasured at fair value with changes being recognized in earnings. During the three month period ended March 31, 2011, Ivanhoe Mines recognized a derivative loss of $432.5 million.

During the three months ended March 31, 2011, the derivative financial liability was settled as rights were exercised or expired unexercised. A total of $1.19 billion was reclassified from the derivative financial liability to share capital, representing the fair value of rights exercised. At expiry, a total of $5.7 million was reclassified from derivative financial liability to additional paid-in capital, representing the fair value of rights which expired unexercised.

The fair value of the derivative financial liability was determined by reference to published market quotations for the rights.

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14. ACCUMULATED OTHER COMPREHENSIVE INCOME

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Accumulated OCI at beginning of period:				
Long-term investments, net of tax of $5,534, $nil, $6,224, $1,896	**$ 45,788**	$ 7,223	**$ 53,239**	$ 17,763
Other long-term investments, net of tax of $nil, $nil, $nil, $nil	**(42,098)**	(40,690)	**(37,180)**	(27,448)
Currency translation adjustment, net of tax of $nil, $nil, $nil, $nil	**31,987**	(8,198)	**23,039**	(6,015)
Noncontrolling interests	**(11,754)**	15,537	**(6,023)**	1,122
	$ 23,923	$ (26,128)	**$ 33,075**	$ (14,578)
Other comprehensive income (loss) for the period:				
Changes in fair value of long-term investments	**$ (27,178)**	$ 14,133	**$ (35,319)**	$ 1,694
Changes in fair value of other long-term investments	**3,760**	1,703	**(1,158)**	(11,539)
Currency translation adjustments	**(22,181)**	18,906	**(13,233)**	16,723
Noncontrolling interests	**12,810**	(5,648)	**7,079**	8,767
Less: reclassification adjustments for gains/losses recorded in earnings:				
Investments:				
Other than temporary impairment charges				3
Other comprehensive income, before tax	**(32,789)**	29,094	**(42,631)**	15,648
Income tax (recovery) expense related to OCI	**2,266**	(1,340)	**2,956**	556
Other comprehensive income, net of tax	**$ (30,523)**	$ 27,754	**$ (39,675)**	$ 16,204
Accumulated OCI at end of period:				
Long-term investments, net of tax of $3,268, $1,340, $3,268, $1,340	**$ 20,876**	$ 20,016	**$ 20,876**	$ 20,016
Other long-term investments, net of tax of $nil, $nil, $nil, $nil	**(38,338)**	(38,987)	**(38,338)**	(38,987)
Currency translation adjustment, net of tax of $nil, $nil, $nil, $nil	**9,806**	10,708	**9,806**	10,708
Noncontrolling interests	**1,056**	9,889	**1,056**	9,889
	$ (6,600)	$ 1,626	**$ (6,600)**	$ 1,626

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15. NONCONTROLLING INTERESTS

At September 30, 2011 there were noncontrolling interests in SouthGobi, Ivanhoe Australia and Oyu Tolgoi LLC:

	Noncontrolling Interests			
	SouthGobi	Ivanhoe Australia	Oyu Tolgoi	Total
Balance, December 31, 2010	$ 286,919	$ 69,092	$ (353,401)	$ 2,610
Noncontrolling interests share of loss	27,026	(25,170)	(8,102)	(6,246)
Noncontrolling interests share of other comprehensive income	(2,005)	(4,681)	(393)	(7,079)
Changes in noncontrolling interests arising from changes in ownership interests	(12,049)	48,106		36,057
Balance, September 30, 2011	$ 299,891	$ 87,347	$ (361,896)	$ 25,342

16. CASH FLOW INFORMATION

(a) Reconciliation of net loss to net cash flow used in operating activities

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Net income (loss)	**$ 2,383**	$ (25,272)	**$ (490,809)**	$ (290,761)
Income from discontinued operations	**9,105**		**9,105**	(6,585)
Items not involving use of cash				
Stock-based compensation	**14,753**	9,211	**53,375**	26,242
Accretion expense	**191**	3,085	**553**	11,838
General and administrative expenses				3,421
Depreciation	**10,828**	1,279	**22,573**	7,376
Write-down of carrying values of property, plant and equipment		1,764		1,764
Accrued interest income	**(315)**	(2,465)	**(6,420)**	(7,585)
Interest expense	**(742)**	5,918		13,243
Unrealized (gains) losses on long-term investments	**2,374**	(1,362)	**2,683**	3,849
Unrealized gains on other long-term investments	**(729)**	(2,019)	**(2,124)**	(3,528)
Realized gain on redemption of other long-term investments	**(9)**	(34)	**(107)**	(121)
Change in fair value of derivative			**432,536**	
Change in fair value of embedded derivatives	**(62,058)**	(49,772)	**(95,699)**	(120,633)
Loss on conversion of convertible debenture				154,316
Unrealized foreign exchange losses (gains)	**35,208**	(5,533)	**31,703**	(5,646)
Share of loss (income) of significantly influenced investees	**19,341**	8,503	**(21,789)**	31,713

Write-down of carrying value of inventory	**3,061**	7,855	**18,936**	14,390
Gain on sale of long-term investments			**(10,628)**	
Gain on settlement of note receivable	**(102,995)**		**(102,995)**	
Net recovery on derecognition of property, plant and equipment	**(2,925)**		**(2,925)**	
Write-down of carrying value of long-term investments	**928**	68	**928**	485
Deferred income taxes	**2,521**	(4,432)	**(10,362)**	(7,205)
Bonus shares	**1,177**		**3,491**	
Net change in non-cash operating working capital items:				
Increase in:				
Accounts receivable	**(2,384)**	(11,439)	**(34,571)**	(17,776)
Inventories	**(19,925)**	(18,352)	**(65,279)**	(33,332)
Prepaid expenses	**(58,737)**	(4,507)	**(78,188)**	(6,205)
Increase in:				
Accounts payable and accrued liabilities	**18,635**	44,869	**31,681**	88,970
Interest payable on long-term debt	**5,858**		**3,831**	
Cash used in operating activities	**$ (124,456)**	$ (42,635)	**$ (310,501)**	$ (141,770)

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IVANHOE MINES LTD.
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16. CASH FLOW INFORMATION (Continued)

(b) Supplementary information regarding other non-cash transactions

The non-cash investing and financing activities relating to continuing operations not already disclosed in the Consolidated Statements of Cash Flows were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	**2011**	2010
Investing activities:				
Acquisition of property, plant and equipment (i)	**$**	$	**$**	$ (195,357)
Financing activites:				
Conversion of convertible credit facility	**$**	$ (400,832)	**$**	$ (400,832)
Partial conversion of convertible debenture (Note 12)				(349,079)
	$	$ (400,832)	**$**	$ (945,268)

(i) In March 2010, the Company and Rio Tinto completed an agreement whereby the Company issued 15.0 million common shares to Rio Tinto for net proceeds of $241.1 million (Cdn$244.7 million) (Note 13 (b)). The Company used $195.4 million of the proceeds to purchase from Rio Tinto key mining and milling equipment to be installed during the construction of the Oyu Tolgoi Project.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)
17. SEGMENT DISCLOSURES

	Nine Months Ended September 30, 2011				
	Development	Exploration	Coal	Corporate	**Consolidated**
REVENUE	$	$	$ 127,985	$	**$ 127,985**
COST OF SALES					
Production and delivery			(84,571)		**(84,571)**
Depreciation and depletion			(20,521)		**(20,521)**
Write-down of carrying value of inventory			(18,936)		**(18,936)**
COST OF SALES			(124,028)		**(124,028)**
EXPENSES					
Exploration	(17,478)	(133,260)	(43,622)		**(194,360)**
General and administrative				(66,151)	**(66,151)**
Depreciation	(130)	(1,609)	(228)	(85)	**(2,052)**
Accretion of asset retirement obligations	(310)		(200)		**(510)**
Write-down of carrying values of property, plant and equipment					
TOTAL EXPENSES	(17,918)	(134,869)	(168,078)	(66,236)	**(387,101)**
OPERATING LOSS	(17,918)	(134,869)	(40,093)	(66,236)	**(259,116)**
OTHER INCOME (EXPENSES)					
Interest income	3,951	5,527	1,047	4,846	**15,371**
Interest expense			(8,495)	(1,123)	**(9,618)**
Accretion of convertible credit facilities			(43)		**(43)**
Foreign exchange gains (losses)	2,820	12	(188)	(32,793)	**(30,149)**
Unrealized losses on long-term investments			(2,683)		**(2,683)**
Unrealized (losses) gains on other long-term investments			(254)	2,378	**2,124**
Realized gain on redemption of other long-term investments				107	**107**
Change in fair value of derivative				(432,536)	**(432,536)**
Change in fair value of embedded derivatives			95,699		**95,699**
Loss on conversion of convertible credit facility					
Write-down of carrying value of long-term investments				(928)	**(928)**
Gain on sale of long-term investment				10,628	**10,628**
Gain on settlement of note receivable				102,995	**102,995**
			2,925		**2,925**

Net recovery on redemption of property, plant and equipment					
(LOSS) INCOME BEFORE INCOME TAXES AND OTHER ITEMS	(11,147)	(129,330)	47,915	(412,662)	**(505,224)**
(Provision) recovery for income taxes	(5)	(694)	5,130	(2,700)	**1,731**
Share of income (loss) of significantly influenced investees		39,877		(18,088)	**21,789**
NET (LOSS) INCOME FROM CONTINUING OPERATIONS	(11,152)	(90,147)	53,045	(433,450)	**(481,704)**
LOSS FROM DISCONTINUED OPERATIONS				(9,105)	**(9,105)**
NET (LOSS) INCOME	(11,152)	(90,147)	53,045	(442,555)	**(490,809)**
NET LOSS (INCOME) ATTRIBUTABLE TO NONCONTROLLING INTERESTS	8,102	25,170	(27,026)		**6,246**
NET (LOSS) INCOME ATTRIBUTABLE TO IVANHOE MINES LTD.	$ (3,050)	$ (64,977)	$ 26,019	$ (442,555)	**$ (484,563)**
CAPITAL EXPENDITURES	$ 1,662,569	$ 15,158	$ 171,334	$ 43	**$ 1,849,104**
TOTAL ASSETS	$ 3,490,154	$ 295,799	$ 929,827	$ 923,016	**$ 5,638,796**

During the nine months ended September 30, 2011, all of the coal division s revenue arose from coal sales in Mongolia. Revenues for the three largest customers were $51.7 million, $30.1 million and $26.7 million, respectively.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)
17. SEGMENT DISCLOSURES (Continued)

	Three Months Ended September 30, 2011				
	Development	Exploration	Coal	Corporate	**Consolidated**
REVENUE	$	$	$ 60,491	$	**$ 60,491**
COST OF SALES					
Production and delivery			(40,997)		**(40,997)**
Depreciation and depletion			(9,991)		**(9,991)**
Write-down of carrying value of inventory			(3,061)		**(3,061)**
COST OF SALES			(54,049)		**(54,049)**
EXPENSES					
Exploration	(6,381)	(52,175)	(21,002)		**(79,558)**
General and administrative				(21,390)	**(21,390)**
Depreciation	(44)	(702)	(87)	(4)	**(837)**
Accretion of asset retirement obligations	(103)		(73)		**(176)**
Write-down of carrying values of property, plant and equipment					
TOTAL EXPENSES	(6,528)	(52,877)	(75,211)	(21,394)	**(156,010)**
OPERATING LOSS	(6,528)	(52,877)	(14,720)	(21,394)	**(95,519)**
OTHER INCOME (EXPENSES)					
Interest income	1,755	1,348	265	1,952	**5,320**
Interest expense			(1,560)	(375)	**(1,935)**
Accretion of convertible credit facilities			(15)		**(15)**
Foreign exchange gains (losses)	680	3	(200)	(36,035)	**(35,552)**
Unrealized losses on long-term investments			(2,374)		**(2,374)**
Unrealized (losses) gains on other long-term investments			(75)	804	**729**
Realized gain on redemption of other long-term investments				9	**9**
Change in fair value of derivative					
Change in fair value of embedded derivatives			62,058		**62,058**
Loss on conversion of convertible credit facility					
Write-down of carrying value of long-term investments				(928)	**(928)**
Gain on sale of long-term investment					
Gain on settlement of note receivable				102,995	**102,995**
Net recovery on redemption of property, plant and equipment			2,925		**2,925**

(LOSS) INCOME BEFORE INCOME TAXES AND OTHER ITEMS	(4,093)	(51,526)	46,304	47,028	**37,713**
Provision for income taxes		(63)	(6,203)	(618)	**(6,884)**
Share of loss of significantly influenced investees		(11,044)		(8,297)	**(19,341)**
NET (LOSS) INCOME FROM CONTINUING OPERATIONS	(4,093)	(62,633)	40,101	38,113	**11,488**
LOSS FROM DISCONTINUED OPERATIONS				(9,105)	**(9,105)**
NET (LOSS) INCOME	(4,093)	(62,633)	40,101	29,008	**2,383**
NET LOSS (INCOME) ATTRIBUTABLE TO NONCONTROLLING INTERESTS	3,070	20,614	(18,734)		**4,950**
NET INCOME (LOSS) ATTRIBUTABLE TO IVANHOE MINES LTD.	$ (1,023)	$ (42,019)	$ 21,367	$ 29,008	**$ 7,333**
CAPITAL EXPENDITURES	$ 648,433	$ 11,224	$ 59,176	$ 2	**$ 718,835**
TOTAL ASSETS	$ 3,490,154	$ 295,799	$ 929,827	$ 923,016	**$ 5,638,796**

During the three months ended September 30, 2011, all of the coal division s revenue arose from coal sales in Mongolia. Revenues for the three largest customers were $23.4 million, $13.6 million and $13.0 million, respectively.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)
17. SEGMENT DISCLOSURES (Continued)

	Nine Months Ended September 30, 2010				
	Development	Exploration	Coal	Corporate	**Consolidated**
REVENUE	$	$	$ 38,182	$	**$ 38,182**
COST OF SALES					
Production and delivery			(28,073)		**(28,073)**
Depreciation and depletion			(5,854)		**(5,854)**
Write-down of carrying value of inventory			(14,390)		**(14,390)**
COST OF SALES			(48,317)		**(48,317)**
EXPENSES					
Exploration	(74,307)	(49,183)	(35,547)		**(159,037)**
General and administrative				(38,052)	**(38,052)**
Depreciation	(642)	(678)	(129)	(73)	**(1,522)**
Accretion of asset retirement obligations	(67)		(75)		**(142)**
Write-down of carrying values of property, plant and equipment			(1,764)		**(1,764)**
TOTAL EXPENSES	(75,016)	(49,861)	(85,832)	(38,125)	**(248,834)**
OPERATING LOSS	(75,016)	(49,861)	(47,650)	(38,125)	**(210,652)**
OTHER INCOME (EXPENSES)					
Interest income	2,661	1,196	1,851	5,231	**10,939**
Interest expense			(19,624)	(8,333)	**(27,957)**
Accretion of convertible credit facilities			(46)	(11,650)	**(11,696)**
Foreign exchange (losses) gains	(523)	33	252	2,383	**2,145**
Unrealized losses on long-term investments			(3,849)		**(3,849)**
Unrealized gains on other long-term investments			343	3,185	**3,528**
Realized gain on redemption of other long-term investments				121	**121**
Change in fair value of derivative					
Change in fair value of embedded derivatives			120,633		**120,633**
Loss on conversion of convertible credit facility			(154,316)		**(154,316)**
Write-down of carrying value of long-term investments				(485)	**(485)**
Gain on sale of long-term investment					
Gain on settlement of note receivable					

Net recovery on redemption of property, plant and equipment					
LOSS BEFORE INCOME TAXES AND OTHER ITEMS	(72,878)	(48,632)	(102,406)	(47,673)	**(271,589)**
(Provision) recovery for income taxes	(17)	(1,288)	5,381	1,880	**5,956**
Share of loss of significantly influenced investees		(749)		(30,964)	**(31,713)**
NET LOSS FROM CONTINUING OPERATIONS	(72,895)	(50,669)	(97,025)	(76,757)	**(297,346)**
INCOME FROM DISCONTINUED OPERATIONS				6,585	**6,585**
NET LOSS	(72,895)	(50,669)	(97,025)	(70,172)	**(290,761)**
NET LOSS ATTRIBUTABLE TO NONCONTROLLING INTERESTS	11,233	7,718	23,053		**42,004**
NET LOSS ATTRIBUTABLE TO IVANHOE MINES LTD.	$ (61,662)	$ (42,951)	$ (73,972)	$ (70,172)	**$ (248,757)**
CAPITAL EXPENDITURES	$ 335,386	$ 19,636	$ 75,590	$ 86	**$ 430,698**
TOTAL ASSETS	$ 886,277	$ 288,343	$ 942,990	$ 669,890	**$ 2,787,500**

During the nine months ended September 30, 2010, all of the coal division s revenue arose from coal sales in Mongolia. Revenues for the three largest customers were $24.1 million, $12.8 million and $1.2 million, respectively.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)
17. SEGMENT DISCLOSURES (Continued)

	Three Months Ended September 30, 2010				
	Development	Exploration	Coal	Corporate	**Consolidated**
REVENUE	$	$	$ 6,597	$	**$ 6,597**
COST OF SALES					
Production and delivery			(5,975)		**(5,975)**
Depreciation and depletion			(1,027)		**(1,027)**
Write-down of carrying value of inventory			(7,855)		**(7,855)**
COST OF SALES			(14,857)		**(14,857)**
EXPENSES					
Exploration	(14,297)	(19,158)	(14,676)		**(48,131)**
General and administrative				(15,005)	**(15,005)**
Depreciation	(6)	(200)	(40)	(6)	**(252)**
Accretion of asset retirement obligations	(23)		(28)		**(51)**
Write-down of carrying values of property, plant and equipment			(1,764)		**(1,764)**
TOTAL EXPENSES	(14,326)	(19,358)	(31,365)	(15,011)	**(80,060)**
OPERATING LOSS	(14,326)	(19,358)	(24,768)	(15,011)	**(73,463)**
OTHER INCOME (EXPENSES)					
Interest income	1,013	1,076	627	1,056	**3,772**
Interest expense			(4,891)	(1,389)	**(6,280)**
Accretion of convertible credit facilities			(13)	(3,021)	**(3,034)**
Foreign exchange (losses) gains	(320)	18	853	4,783	**5,334**
Unrealized gains on long-term investments			1,363		**1,363**
Unrealized gains on other long-term investments			373	1,646	**2,019**
Realized gain on redemption of other long-term investments				34	**34**
Change in fair value of derivative					
Change in fair value of embedded derivatives			49,772		**49,772**
Loss on conversion of convertible credit facility					
Write-down of carrying value of long-term investments				(68)	**(68)**
Gain on sale of long-term investment					
Gain on settlement of note receivable					
Net recovery on redemption of property, plant and equipment					

(LOSS) INCOME BEFORE INCOME TAXES AND OTHER ITEMS	(13,633)	(18,264)	23,316	(11,970)	**(20,551)**
(Provision) recovery for income taxes	(1)	11	2,240	1,532	**3,782**
Share of loss of significantly influenced investees		(131)		(8,372)	**(8,503)**
NET (LOSS) INCOME FROM CONTINUING OPERATIONS	(13,634)	(18,384)	25,556	(18,810)	**(25,272)**
INCOME FROM DISCONTINUED OPERATIONS					
NET (LOSS) INCOME	(13,634)	(18,384)	25,556	(18,810)	**(25,272)**
NET LOSS (INCOME) ATTRIBUTABLE TO NONCONTROLLING INTERESTS	9,074	3,262	(11,925)		**411**
NET (LOSS) INCOME ATTRIBUTABLE TO IVANHOE MINES LTD.	$ (4,560)	$ (15,122)	$ 13,631	$ (18,810)	**$ (24,861)**
CAPITAL EXPENDITURES	$ 181,994	$ 18,551	$ 22,256	$ 42	**$ 222,843**
TOTAL ASSETS	$ 886,277	$ 288,343	$ 942,990	$ 669,890	**$ 2,787,500**

During the three months ended September 30, 2010, all of the coal division s revenue arose from coal sales in Mongolia. Revenues for the three largest customers were $3.7 million, $2.0 million and $0.8 million, respectively.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
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18. FAIR VALUE ACCOUNTING

The ASC establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. The three levels of the fair value hierarchy are as follows:

Level 1: Quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.

Level 2: Quoted prices in markets that are not active, or inputs that are observable, either directly or indirectly, for substantially the full term of the asset or liability.

Level 3: Prices or valuation techniques that require inputs that are both significant to the fair value measurement and unobservable.

The following table sets forth the Company s assets and liabilities measured at fair value on a recurring basis by level within the fair value hierarchy. Assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement.

	Fair Value at September 30, 2011			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Short-term investments	**$ 9,998**	$ 9,998	$	$
Long-term investments	**77,080**	77,080		
Other long-term investments	**294,873**	44,994		249,879
	$ 381,951	$ 132,072	$	$ 249,879
Liabilities:				
Embedded derivative liability	**59,178**		59,178	
	$ 59,178	$	$ 59,178	$

	Fair Value at December 31, 2010			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Short-term investments	**$ 98,373**	$ 98,373	$	$
Long-term investments	**113,666**	113,458	208	
Other long-term investments	**191,816**	45,173		146,643
	$ 403,855	$ 257,004	$ 208	$ 146,643
Liabilities:				

Rights offering derivative liability	**$**	**766,238**	$	766,238	$		$
Embedded derivative liability		**154,877**				154,877	
	$	**921,115**	$	766,238	$	154,877	$

IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

18. FAIR VALUE ACCOUNTING (Continued)

The Company s short-term and long-term investments are classified within Level 1 and 2 of the fair value hierarchy as they are valued using quoted market prices of certain investments, as well as quoted prices for similar investments.

The Company s other long-term investments are classified within Level 1 and 3 of the fair value hierarchy and consist of Long-Term Notes, T-Bill, tax prepayments and Money Market investments.

The Company s rights offering derivative liability is classified within Level 1 of the fair value hierarchy as it is valued using quoted market prices for the rights.

The Company s embedded derivative liability, included within the convertible credit facility (Note 11), is classified within Level 2 of the fair value hierarchy as it is determined using a Monte Carlo simulation valuation model, which uses readily observable market inputs.

The table below sets forth a summary of changes in the fair value of the Company s Level 3 financial assets for the nine months ended September 30, 2011.

	Long-Term Notes	T-Bills	Tax Prepayments	Totals
Balance, December 31, 2010	**$ 29,763**	**$ 80,394**	**$ 36,486**	**$ 146,643**
Additions			100,000	**100,000**
Accrued interest		2,180	1,233	**3,413**
Foreign exchange losses	(1,306)			**(1,306)**
Fair value redeemed	(91)			**(91)**
Unrealized gains (losses) included in other comprehensive income		3,657	(4,815)	**(1,158)**
Unrealized gains included in earnings	2,378			**2,378**
Balance, September 30, 2011	**$ 30,744**	**$ 86,231**	**$ 132,904**	**$ 249,879**

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

19. DISCLOSURES REGARDING FINANCIAL INSTRUMENTS

(a) The estimated fair value of Ivanhoe Mines financial instruments was as follows:

	September 30, 2011		December 31, 2010	
	Carrying Amount	**Fair Value**	Carrying Amount	Fair Value
Cash and cash equivalents	**$ 1,410,255**	**$ 1,410,255**	$ 1,264,031	$ 1,264,031
Short-term investments	**9,998**	**9,998**	98,373	98,373
Accounts receivable	**104,512**	**104,512**	65,741	65,741
Long-term investments	**144,376**	**260,210**	151,191	280,181
Other long-term investments	**294,873**	**294,873**	191,816	191,816
Accounts payable and accrued liabilities	**496,028**	**496,028**	260,528	260,528
Amounts due under credit facilities	**52,202**	**52,202**	54,695	54,695
Rights offering derivative liability			766,238	766,238
Convertible credit facility	**161,953**	**161,953**	254,596	254,596

The fair value of Ivanhoe Mines long-term investments was determined by reference to published market quotations, which may not be reflective of future values.

The fair value of Ivanhoe Mines other long-term investments, consisting of the Long-Term Notes, T-Bill, tax prepayments and Money Market investments, was determined by considering the best available data regarding market conditions for such investments, which may not be reflective of future values.

The fair value of the rights offering derivative liability was determined by reference to published market quotations, which may not be reflective of future value.

The fair value of the CIC convertible debenture was estimated to approximate the aggregate carrying amount of the CIC convertible credit facility liability and interest payable. This aggregate carrying amount includes the estimated fair value of the embedded derivative liability which was determined using a Monte Carlo simulation valuation model.

The fair values of Ivanhoe Mines remaining financial instruments were estimated to approximate their carrying values, due primarily to the immediate or short-term maturity of these financial instruments.

(b) Ivanhoe Mines is exposed to credit risk with respect to its accounts receivable. The significant concentrations of credit risk are situated in Mongolia and Australia. Ivanhoe Mines does not mitigate the balance of this risk in light of the credit worthiness of its major debtors.

(c) Ivanhoe Mines is exposed to interest rate risk with respect to the variable rates of interest incurred on the amounts due under credit facilities (Note 11). Interest rate risk is concentrated in Canada. Ivanhoe Mines does not mitigate the balance of this risk.

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IVANHOE MINES LTD.
Notes to the Consolidated Financial Statements
(Stated in U.S. dollars unless otherwise noted; tabular amounts in thousands)

20. CONTINGENCIES

Due to the size, complexity and nature of the Company s operations, various legal and tax matters arise in the ordinary course of business. The Company accrues for such items when a liability is both probable and the amount can be reasonably estimated. In the opinion of management, these matters will not have a material effect on the consolidated financial statements of the Company.

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Interim Report for the three and nine month periods ended September 30, 2011.

Share Information
Common shares of Ivanhoe Mines Ltd. are listed for trading under the symbol IVN on the New York Stock Exchange, NASDAQ and the Toronto Stock Exchange.

Investor Information
All financial reports, news releases and corporate information can be accessed on our web site at www.ivanhoe-mines.com.

At November 14, 2011, the Company had 738.9 million common shares issued and outstanding and stock options outstanding for 23.9 million additional common shares.

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INTRODUCTION

This discussion and analysis of the financial condition and results of operations (MD&A) of Ivanhoe Mines Ltd. should be read in conjunction with the unaudited consolidated financial statements of Ivanhoe Mines Ltd. and the notes thereto for the three and nine-month periods ended September 30, 2011, and with the audited consolidated financial statements of Ivanhoe Mines Ltd. and the notes thereto for the year ended December 31, 2010. These financial statements have been prepared in accordance with generally accepted accounting principles in the United States of America (U.S. GAAP). In this MD&A, unless the context otherwise dictates, a reference to the Company refers to Ivanhoe Mines Ltd. and a reference to Ivanhoe Mines refers to Ivanhoe Mines Ltd., together with its subsidiaries. Additional information about the Company, including its Annual Information Form, is available at www.sedar.com.

References to C$ refer to Canadian dollars, A$ to Australian dollars, and $ to United States dollars.

This discussion and analysis contains forward-looking statements. Please refer to the cautionary language on page 33.

The effective date of this MD&A is November 14, 2011.

OVERVIEW

IVANHOE MINES ANNOUNCES FINANCIAL RESULTS
AND REVIEW OF OPERATIONS FOR THE THIRD QUARTER OF 2011

HIGHLIGHTS DURING THE QUARTER AND SUBSEQUENT WEEKS

Overall construction at Oyu Tolgoi continues to advance on budget and reached a 54.4% level of completion at the end of Q3 11. Key elements of the project, including the concentrator complex, primary crusher and tailings-thickening ponds, remain ahead of schedule. Total capital invested in the project to the end of Q3 11 was approximately $3.2 billion. Facilities required for first ore production in mid-2012 remain on schedule and commercial production is expected to commence in the first half of 2013.

Pre-stripping for the phase-one open-pit mine on the gold-rich Southern Oyu deposits at Oyu Tolgoi began in August 2011. By the end of Q3 11, approximately 1.3 million tonnes of overburden material had been moved.

The development of the first lift of the phase-two underground block-cave mine at the Hugo North Deposit continued successfully during Q3 11. Lateral mine development 1,300 metres below surface at Hugo North is on schedule, achieving an advance during Q3 11 of 1,187 metres, for a total of 9,126 metres completed since tunnelling started in 2008.

IVANHOE MINES LTD.
MANAGEMENT S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS
(Stated in U.S. dollars, except where noted)

Construction of Shaft #2 infrastructure is progressing well. The headframe and ancillary buildings were 59.9% complete at the end of Q3 11. Sinking of the shaft is expected to commence in the second half of November 2011.

Oyu Tolgoi s site-based construction workforce was approximately 14,760 at the end of Q3 11, with approximately 11,680 working on site each day and the balance on leave. Approximately 7,820 Mongolians were employed at the Oyu Tolgoi site, with an additional 3,300 Mongolians participating in offsite training and educational programs. These Mongolian employees will form the bulk of the eventual production workforce.

In May 2011, the Oyu Tolgoi Project received the final approvals required to proceed with construction of a 220-kilovolt power transmission line from Oyu Tolgoi along a 95-kilometre route south to the Mongolia-China international border. Construction of the transmission towers was completed in October 2011 and the stringing of power cables is expected to commence in spring 2012. The transmission line is planned to be extended across the Mongolian border by Chinese contractors to tie into the neighbouring Inner Mongolian electrical grid in China.

Discussions between the Mongolian and Chinese governments were held during Q2 11 and Q3 11 and are expected to conclude a bilateral agreement that would secure the supply of initial electrical power from China. Subject to negotiations and final agreement, the remaining permits, commercial arrangements and power-purchase tariffs are expected to be expedited to ensure that imported power will be available at the Oyu Tolgoi site by Q3 12. In the meantime, additional diesel-powered generating capacity has been approved to meet the project s requirements during the remaining stages of construction.

During Q3 11, Ivanhoe Mines 58%-owned subsidiary, SouthGobi Resources (SGQ: TSX; 1878: HK), reported coal sales of $60.5 million from its Ovoot Tolgoi mine in southern Mongolia, representing approximately 1.37 million tonnes of coal sold to customers in China at an average realized price (before royalties and selling fees) of approximately $54 per tonne.

Ivanhoe Mines 59%-owned subsidiary, Ivanhoe Australia (IVA: ASX & TSX), continues to advance its copper, gold, molybdenum and rhenium mine development projects in the Cloncurry region of Queensland. The Osborne copper and gold project is scheduled to begin initial production in the first half of 2012; construction of the decline to access the Merlin molybdenum and rhenium deposit had progressed to 1,438 metres by the end of Q3 11.

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Altynalmas Gold, 50%-owned by Ivanhoe Mines, is continuing its drilling program designed to further delineate and upgrade resources and reserves to NI 43-101 standards at the Kyzyl Gold Project in Kazakhstan. Altynalmas Gold is proceeding to advance the development of the project following the completion of a pre-feasibility study in 2010.

In Q3 11, Ivanhoe Mines recorded net income of $7.3 million ($0.01 per share), compared to a net loss of $24.9 million ($0.05 per share) in Q3 10, which was an increase of $32.2 million. Results for Q3 11 mainly were affected by $79.6 million in exploration expenses, $54.0 million in cost of sales, $21.4 million in general and administrative expenses, $35.6 million in foreign exchange losses, a $19.3 million share of loss of significantly influenced investees, a $9.1 million loss from discontinued operations and $1.9 million in interest expense. These amounts were offset by coal revenue of $60.5 million, a $62.1 million change in the fair value of embedded derivatives, a $103.0 million gain on settlement of a long-term note receivable, and $5.3 million in interest income.

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SELECTED QUARTERLY DATA

($ in millions of dollars, except per share information)

	Quarter Ended			
	Sep-30 2011	Jun-30 2011	Mar-31 2011	Dec-31 2010
Revenue	$ 60.5	$ 47.3	$ 20.2	$ 41.6
Cost of sales	(54.0)	(49.7)	(20.3)	(46.4)
Exploration expenses	(79.6)	(68.6)	(46.2)	(59.6)
General and administrative	(21.4)	(19.5)	(25.3)	(46.4)
Foreign exchange (losses) gains	(35.6)	2.3	3.2	6.6
Change in fair value of derivative			(432.5)	135.7
Gain on settlement of note receivable	103.0			
Change in fair value of embedded derivatives	62.1	70.4	(36.8)	(20.0)
Net income (loss) from continuing operations	16.4	0.6	(492.5)	37.3
Income (loss) from discontinued operations	(9.1)			
Net income (loss)	7.3	0.6	(492.5)	37.3
Net income (loss) per share basic				
Continuing operations	$ 0.02	$ 0.00	$ (0.79)	$ 0.07
Discontinued operations	$ (0.01)	$ 0.00	$ 0.00	$ 0.00
Total	$ 0.01	$ 0.00	$ (0.79)	$ 0.07
Net income (loss) per share diluted				
Continuing operations	$ 0.02	$ 0.00	$ (0.79)	$ 0.06
Discontinued operations	$ (0.01)	$ 0.00	$ 0.00	$ 0.00
Total	$ 0.01	$ 0.00	$ (0.79)	$ 0.06

	Quarter Ended			
	Sep-30 2010	Jun-30 2010	Mar-31 2010	Dec-31 2009
Revenue	$ 6.6	$ 17.7	$ 13.9	$ 9.9
Cost of sales	(14.9)	(13.2)	(20.3)	(8.5)
Exploration expenses	(48.1)	(39.5)	(71.4)	(67.2)
General and administrative	(15.0)	(14.7)	(8.3)	(15.0)
Foreign exchange gains (losses)	5.3	(4.9)	1.7	2.2
Change in fair value of embedded derivatives	49.8	72.2	(1.4)	(45.0)
Loss on conversion of convertible credit facility			(154.3)	
Net income (loss) from continuing operations	(24.9)	(30.0)	(200.5)	(138.7)
Income (loss) from discontinued operations			6.6	9.2
Net income (loss)	(24.9)	(30.0)	(193.9)	(129.5)
Net income (loss) per share basic				
Continuing operations	$ (0.05)	$ (0.06)	$ (0.44)	$ (0.32)
Discontinued operations	$ 0.00	$ 0.00	$ 0.01	$ 0.02
Total	$ (0.05)	$ (0.06)	$ (0.43)	$ (0.30)

Net income (loss) per share diluted								
Continuing operations	$	(0.05)	$	(0.06)	$	(0.44)	$	(0.32)
Discontinued operations	$	0.00	$	0.00	$	0.01	$	0.02
Total	$	(0.05)	$	(0.06)	$	(0.43)	$	(0.30)

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REVIEW OF OPERATIONS

Ivanhoe Mines is an international exploration and development company with activities concentrated in Central Asia and the Asia Pacific Region. The Company s principal assets include:

- A 100% interest in Oyu Tolgoi Netherlands B.V. that, together with a related company, holds a 66% interest in Oyu Tolgoi LLC, whose principal asset is the Oyu Tolgoi copper-gold-silver project now under construction in southern Mongolia.
- A 58% interest in SouthGobi Resources, which is selling coal produced at its Ovoot Tolgoi mine in southern Mongolia to customers in China and is conducting ongoing exploration and development programs at several other Mongolian coal prospects.
- A 59% interest in Ivanhoe Australia, which is progressing its projects in the Cloncurry region of Queensland, Australia, with the key focus on commencing copper and gold production in March 2012.
- A 50% interest in Altynalmas Gold, which owns the Kyzyl Gold Project that hosts the Bakyrchik and Bolshevik gold deposits in Kazakhstan.

In Q3 11, Ivanhoe Mines recorded net income of $7.3 million ($0.01 per share), compared to a net loss of $24.9 million ($0.05 per share) in Q3 10, which was an increase of $32.2 million. Results for Q3 11 mainly were affected by $79.6 million in exploration expenses, $54.0 million in cost of sales, $21.4 million in general and administrative expenses, $35.6 million in foreign exchange losses, a $19.3 million share of loss of significantly influenced investees, a $9.1 million loss from discontinued operations and $1.9 million in interest expense. These amounts were offset by coal revenue of $60.5 million, a $62.1 million change in the fair value of embedded derivatives, a $103.0 million gain on settlement of a long-term note receivable, and $5.3 million in interest income.

Exploration expenses of $79.6 million in Q3 11 increased $31.5 million from $48.1 million in Q3 10. Exploration expenses included $30.1 million spent in Mongolia ($30.4 million in Q3 10), primarily for Oyu Tolgoi and SouthGobi s Ovoot Tolgoi and Soumber deposits, and $47.1 million incurred by Ivanhoe Australia ($15.7 million in Q3 10). Exploration costs are charged to operations in the period incurred and often represent the bulk of Ivanhoe Mines operating loss for that period.

Ivanhoe Mines cash position, on a consolidated basis at September 30, 2011, was $1.4 billion. As at November 14, 2011, Ivanhoe Mines consolidated cash position was approximately $1.1 billion.

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A. CORE INTERESTS AND ACTIVITIES

Ivanhoe Mines main activities during Q3 11 were the mine development activities at the Oyu Tolgoi Project, coal production at SouthGobi s Ovoot Tolgoi mine and exploration activities largely focused in Australia and Mongolia.

In Q3 11, Ivanhoe Mines capitalized $752.0 million in additions to property, plant and equipment for the Oyu Tolgoi Project.

In Q3 11, Ivanhoe Mines expensed $79.6 million in exploration activities, compared to $48.1 million in Q3 10. Exploration costs generally are charged to operations in the period incurred until it is determined that a property has economically recoverable reserves, at which time subsequent exploration costs and the costs incurred to develop a property are capitalized.

MONGOLIA

OYU TOLGOI COPPER-GOLD-SILVER PROJECT (66% owned)

The Oyu Tolgoi Project is approximately 550 kilometres south of Ulaanbaatar, Mongolia s capital city, and 80 kilometres north of the Mongolia-China border. Mineralization on the property consists of porphyry-style copper, gold, silver and molybdenum contained in a linear structural trend (the Oyu Tolgoi Trend) with a strike length that extends over 23 kilometres. Mineral resources have been identified in a series of deposits throughout this trend. They include, from south to north, the Heruga Deposit, the Southern Oyu deposits (Southwest Oyu, South Oyu, Wedge and Central Oyu), and the Hugo Dummett deposits (Hugo South, Hugo North and Hugo North Extension).

Ivanhoe Mines began capitalizing Oyu Tolgoi development costs on April 1, 2010. During Q3 11, additions to property, plant and equipment for the Oyu Tolgoi Project totalled $752.0 million, which included development costs.

In Q3 11, Ivanhoe Mines incurred exploration expenses of $6.4 million at Oyu Tolgoi, compared to $14.3 million incurred in Q3 10.

Construction of the Oyu Tolgoi copper-gold-silver complex advancing toward planned start of commercial production in the first half of 2013

The Oyu Tolgoi Project initially is being developed as an open-pit operation, with the first phase of mining to start at the near-surface Southern Oyu deposits, which include Southwest Oyu and Central Oyu. A copper concentrator plant, related facilities and necessary infrastructure that will support an initial throughput of 100,000 tonnes of ore per day are being constructed to process ore scheduled to be mined from the Southern Oyu open pit. Commercial production of copper-gold-silver concentrate is projected to begin in the first half of 2013.

Along with the surface activities, an 85,000-tonne-per-day underground block-cave mine also is being developed at the Hugo North Deposit, with initial production expected to begin in 2015. The throughput capacity of the concentrator plant is expected to be expanded up to approximately 160,000 tonnes of ore per day when the underground mine begins production.

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Fluor Corporation is in charge of overall Oyu Tolgoi program management, as well as services related to engineering, procurement and construction management for the ore processing plant and mine-related infrastructure, such as roads, water supply, a regional airport and administration buildings.

Current operations activities related to the phase-one concentrator are focused on finalizing the operational readiness plan. Detailed commissioning, operation and maintenance plans are being developed for all the components of the concentrator circuits. Representatives of various manufacturers and engineering groups are assisting with the preparation of the operational readiness plan. Pre-stripping for the open-pit mine began in early August 2011; assembly of the mining fleet is continuing.

In early May 2011, the Oyu Tolgoi Project received the final approvals required to proceed with construction of a 220-kilovolt power transmission line from Oyu Tolgoi along a 95-kilometre route south to the Mongolia-China international border. The construction approval from Mongolia s Energy Regulatory Authority and a land-use contract from the governor of Khanbogd soum (township), which includes Oyu Tolgoi, now have been received. Both are key to the plan to import electrical power from China to operate the Oyu Tolgoi complex during its initial four years of commercial production. Contracts have been awarded to Mongolian companies for construction of the power transmission line to the border. Construction of the towers to the Mongolian border was completed in October 2011 and line stringing is expected to commence in spring 2012. The transmission line is planned to be extended across the Mongolian border by Chinese contractors to tie into the neighbouring Inner Mongolian electrical grid in China.

Discussions between the Mongolian and Chinese governments were held during Q2 11 and Q3 11 and are continuing toward the objective of concluding a bilateral agreement that would secure the supply of electrical power from China. Subject to negotiations and final agreement, the remaining permits, commercial arrangements and power-purchase tariffs are expected to be expedited to ensure that imported power will be available at the Oyu Tolgoi site by Q3 12. In the meantime, additional diesel-powered generating capacity has been approved to meet the project s requirements during the remaining stages of construction.

The long-term Investment Agreement for the development and operation of Oyu Tolgoi, signed by Ivanhoe Mines, Rio Tinto and the Government of Mongolia on October 6, 2009, recognized that the reliable supply of electrical power is critical to the project and that Ivanhoe Mines has the right to obtain electrical power from inside or outside Mongolia, including China, to meet its initial electrical power requirements. The agreement also established a) that Ivanhoe Mines has the right to build or sub-contract construction of a coal-fired power plant at an appropriate site in Mongolia s South Gobi Region to supply Oyu Tolgoi; and b) that all of the project s power requirements would be sourced from within Mongolia no later than four years after Oyu Tolgoi begins commercial production. In November 2011, the Mongolian Government passed a cabinet resolution allowing for the future construction by Oyu Tolgoi LLC of a dedicated coal-fired power plant in Mongolia for the project.

Oyu Tolgoi LLC is finalizing a study of alternative power-generation arrangements that could be implemented if it became apparent that interim imported power would not be available by Q3 12. To date, the study demonstrates that advancing the construction of a coal-fired power plant in Mongolia would be the most appropriate option.

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A dedicated coal-fired power plant would require certain Mongolian Government permits, the negotiation of commercial agreements with the Mongolian Government and coal suppliers and the arrangement of financing for the accelerated construction. If necessary, such an approach would impact the Oyu Tolgoi construction schedule and adversely affect the project s ability to achieve full commercial production in 2013, as planned. Although construction of a power plant is expected as part of the Oyu Tolgoi Project s future development, there is no provision for a plant in the current capital cost estimates for 2011 and 2012 and the financing that would be required is not contemplated as part of the Company s current financing plan. The Heads of Agreement signed with Rio Tinto in December 2010 provided that if construction of a 50-megawatt or greater power plant was started before January 1, 2015, the construction would be funded by loans from Rio Tinto, with 40% of the outstanding balance to be repaid in 2015 and the remainder in 2016.

Overall construction of the Oyu Tolgoi Project was 54.4% complete at the end of Q3 11

Overall construction reached a 54.4% level of completion at the end of Q3 11. Total capital invested in the project by the end of Q3 11 was approximately $3.2 billion. Overall construction is projected to be over 70% complete by the end of 2011.

Major updates for Q3 11 and plans for Q4 11 include:

Pre-stripping of overburden began in August 2011 as part of the construction of the phase-one open-pit mine to recover ore from the Southern Oyu deposits. At the end of Q3 11, approximately 1.3 million tonnes of material had been moved.

The development of the first lift of the phase-two underground block-cave mine at the Hugo North Deposit continued successfully during Q3 11. Lateral mine development 1,300 metres below surface at Hugo North is on schedule and achieved an advance during Q3 11 of 1,187 metres, for a total of 9,126 metres completed since tunnelling started in 2008.

Shaft #2 construction is progressing well. The headframe and ancillary buildings were 59.9% complete at the end of Q3 11. Preparations are underway for sinking, which is expected to begin in November 2011.

Oyu Tolgoi s site-based construction workforce was approximately 14,760 at the end of Q3 11, with approximately 11,680 working on site each day and the balance on leave. Approximately 7,820 Mongolians were employed at the Oyu Tolgoi site, with an additional 3,300 Mongolians participating in offsite training and educational programs. These Mongolian employees will form the bulk of the eventual production workforce, particularly in the open-pit operations.

Construction of the concentrator was 56.2% complete at the end of Q3 11. The structural steel and the cladding for the concentrator building reached substantial completion during Q3 11 (except where openings are needed for equipment installation). The shells for SAG mill #2 and for ball mills #3 and #4 were assembled; heads for the mills were installed; and trunnion bearings were installed for ball mill #3.

Progress of the construction of off-site facilities and infrastructure reached 52.8% at the end of Q3 11, which was slightly behind the plan of 54.1%. The cumulative shortfall was due to delays with the Oyu Tolgoi Gashuun Sukhait road to the Mongolia-China border and the Khanbumbat permanent airport, and the decision to defer until spring 2012 the stringing of cables on the power line to the Mongolia-China border. Facilities required for the production of the first ore are on schedule.

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A diesel management study is underway to review options for onsite and offsite storage of diesel fuel to ensure reliability of supply. An initial indication of the study proposes an additional five-million-litre storage facility on site.

Non-binding concentrate sales memorandums of understandings with two large Chinese smelters and two international trading companies were agreed to during Q3 11. Contracts are expected to be finalized with the smelters and trading companies during the next several months. Most of the concentrate initially produced at Oyu Tolgoi is expected to be delivered to customers in China.

Phase one construction on budget

In December 2010, Ivanhoe Mines announced that a $2.3 billion capital budget had been approved for 2011 the peak year of construction activity on the first phase of the Oyu Tolgoi Project. In addition to the $2.3 billion capital budget, approval also was received for an additional $150 million budget for operation of the Ulaanbaatar office during 2011 and $100 million for the second tax prepayment that was made to the Mongolian Government in June 2011. At the end of Q3 11, $2.2 billion had been spent in 2011, which was slightly over the budget of $2.1 billion due to the strategy of bringing forward certain activities into 2011.

Capital required from January 1, 2011, through to completion of the phase-one, 100,000-tonne-per-day project and the commencement of commercial production scheduled for 2013 is expected to total approximately $4.5 billion. This estimate includes approximately $280 million in remaining contingencies; no provision has been made for foreign exchange variances or cost increases on construction commitments that may be incurred.

The Oyu Tolgoi 2012 budget is expected to be reviewed and approved in December 2011 by the Oyu Tolgoi Board of Directors and the Ivanhoe Mines Board of Directors. The 2012 budget is expected to be in line with the costs estimated for 2012 in the overall phase-one budget, taking into account some shifts in timing of certain activities.

Capital invested in phase-one construction to support future expansion

The engineering and construction stages have recognized the need to accommodate a major increase in ore-processing capacity in the future, while minimizing potential disruption to operations that will be underway at that time.

Wherever possible, Oyu Tolgoi has taken the opportunity to allow for expansion with minimal impact on operations. Oyu Tolgoi s plans call for initial production of 100,000 tonnes of ore per day, which is expected to increase up to approximately 160,000 tonnes per day when ore from the underground mine becomes available. To facilitate this expansion, Oyu Tolgoi has constructed a third ore-reclaim tunnel that will increase the capacity to feed ore to the concentrator by 50-60% over the initial rate of production. To cater to future increased production, a pipeline has been installed that, with minor modifications, could supply water for processing up to 160,000 tonnes a day. Oyu Tolgoi also has allowed for expansion in the concentrator by adding space in the flotation area and installing other equipment to handle higher production rates. Studies examining options to process additional ore are ongoing.

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Pre-stripping of open-pit mine started as planned in Q3 11

Pre-stripping of overburden to gain access to ore in the phase-one open-pit mine began on schedule in August 2011. Work began with the construction fleet hauling clay material to the tailing-storage facility and the infrastructure projects, including roads, laydowns and access ramps. Commissioning of the initial open-pit mining fleet began in September 2011 with the release of the first Bucyrus RH340 hydraulic shovel and Komatsu 930E haul trucks. Deliveries of heavy mobile equipment, assembly and commissioning are on-going and all operational-readiness activities are on schedule. The full fleet of 28 trucks is expected to be in operation in August 2012.

Underground development of Hugo North Mine proceeding on schedule

The development of the first lift of the phase-two underground block-cave mine at the Hugo North Deposit continued successfully during Q3 11. Lateral mine development 1,300 metres below surface at Hugo North is on schedule.

The first ventilation raise pilot-hole broke through to the 1,300-metre level in Q2 11. Initial reaming from the 1,300-metre level has proven difficult and additional concrete grouting is being undertaken to stabilize the ground. Work has begun on two more ventilation raise holes that will provide additional air flow to the underground workings and help to increase lateral development performance. The underground development of Shaft #1 is expected to connect with the bottom of Shaft #2 in early 2013 and production from the first lift of the Hugo North block-cave mine is scheduled to begin in 2015.

Rio Tinto working with Ivanhoe Mines to complete international project-finance package of up to $4.0 billion

Ivanhoe Mines, Rio Tinto, a core lending group and their respective advisers are working together to finalize an approximate $4.0 billion project-finance facility for the Oyu Tolgoi Project, with the objective of signing loan documentation in early Q2 12.

The initial core lending group of Mandated Lead Arrangers is comprised of European Bank for Reconstruction and Development, International Finance Corporation, Export Development Canada, BNP Paribas and Standard Chartered Bank. USExim Bank together with its adviser, Standard Bank Multilateral Investment Guarantee Agency, a member of the World Bank Group and the Australian Export Finance and Insurance Corporation recently joined the lender group and have begun their due diligence processes with a view to supporting the financing.

Recent meetings with lenders also were attended by Erdenes MGL LLC, the Mongolian state-owned shareholder that owns 34% of Oyu Tolgoi LLC, and representatives from Oyu Tolgoi LLC.

Preparation of a term sheet outlining the main terms and conditions common to all lenders is well advanced. Lenders have built a financial model and are expected to finalize their technical, marketing, financial, legal, insurance, environmental and social due diligence later this year.

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During Q3 11, project finance activities focused on the following:

Completion tests. A meeting was held with lender representatives and the outcome was a tentatively agreed position on outstanding issues. This agreement remains subject to further discussions, most particularly the finalization of covenant ratios associated with the financial model.

On other outstanding term sheet points, the scope of certain financial definitions and ratios, sponsor covenants and permitted Rio Tinto senior debt remain outstanding, however finalization of the completion tests likely will also involve finalization of definitions and ratios at a minimum. Progress on reporting requirements was made during Q3 11 with drafts exchanged between Oyu Tolgoi LLC and the lender group.

Working capital facility. Progress was made in finalizing a term sheet with four main Mongolian Banks for an unsecured working capital facility for Oyu Tolgoi LLC. The term sheet will be discussed with the Mongolian banks in Q4 11 in conjunction with an update on the project financing to be presented to the Oyu Tolgoi LLC board by the project finance team. Although not central to the financing plan, the Mongolian facility is seen as an important aspect, providing the Mongolian Banks with the opportunity to participate in the financing of Oyu Tolgoi.

With financial close approaching, discussion on the syndication strategy commenced during Q2 11. Ivanhoe Mines and Rio Tinto were presented with a proposal by a commercial bank to underwrite a significant portion of the project finance debt in syndication. Ivanhoe Mines and Rio Tinto are reviewing the proposal.

Environmental Social Impact Assessment (ESIA). The ESIA is nearing completion with an objective of seeking Oyu Tolgoi LLC Board of Directors approval in Q4 11.

Other due diligence work streams are progressing and do not currently pose any issues for the project financing.

Prior to first drawdown, it is expected that Ivanhoe Mines will utilize a $1.8 billion interim funding facility provided by Rio Tinto as bridge financing. This facility will be repaid from the first drawdown of the project finance facility. Final terms of a third-party project-finance facility for the Oyu Tolgoi Project remain subject to the approval of the Oyu Tolgoi LLC Board of Directors, the Ivanhoe Mines Board of Directors and the joint Ivanhoe Mines-Rio Tinto Technical Committee.

Skills training and community programs well advanced

The Oyu Tolgoi Project s staffing strategy continues to rely on the employment and training of Mongolian nationals throughout the construction phase. At the end of Q3 11, more than 13,000 Mongolians were working on the project with 69 contractor companies. Approximately 370 Mongolians are contracted to Oyu Tolgoi as trainees and are developing operator and maintenance skills, required for Oyu Tolgoi s scheduled start-up in 2012, at four selected Mongolian technical and vocational education training (TVET) schools and two major OEM vendor companies, Transwest and Wagner Asia. In addition more than 3,300 Mongolians are participating in a special government employee training scheme funded by Oyu Tolgoi that is further adding to the overall skills development pool.

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Oyu Tolgoi has committed more than $85 million in funding over five years toward technical and vocational training in Mongolia.

Major training activities throughout Q4 11 will include:

- Upgrades and extensions of TVET school facilities and dormitories at four government technical training colleges across Mongolia.
- Completion by December 2011 of initial construction of extensions to training facilities for the existing Dalanzadgad and Darkhan technical training schools, which have been underway since June 2011.
- Ongoing initial construction of extensions to training facilities for the existing Choir technical training school, which began in October 2011 and are expected to be completed by August 2012.
- Scheduled completion by December 2011 of construction of the new TVET school in Khanbogd soum. Owned by Oyu Tolgoi, the Khanbogd school will support Oyu Tolgoi site training and provide the local communities with a training venue.
- Ongoing design of the planned TVET school to be constructed at Nalaikh (Ulaanbaatar district); anticipated start of construction is April 2012, with completion in December 2013.
- Ongoing planning for the new TVET facility at Dalanzadgad (South Gobi Region) has begun; 20 hectares of land have been acquired for its construction and future extensions.
- Continuing development of a training curriculum and materials for operations at the concentrator, open-pit, infrastructure and underground mine, which are being introduced in the TVET schools.
- Programs are continuing for international and Mongolian university scholarships, with 55 students selected by Oyu Tolgoi this year.
- 50 Mongolians have been recruited to begin the Oyu Tolgoi/Rio Tinto Graduate Program.

Support for Investment Agreement reaffirmed

During Q3 11, 20 members of Mongolia s 76-seat national parliament petitioned the government to pursue changes to the Oyu Tolgoi Investment Agreement ahead of Mongolia s general election set for June 2012. The MPs wanted to accelerate the timing of the government s option to increase its current 34% interest in Oyu Tolgoi to 50%, which is permitted after 30 years under provisions of the 2009 Investment Agreement. After being invited by the government to discuss potential changes to the Investment Agreement, Ivanhoe Mines and Rio Tinto advised the government that they were not prepared to renegotiate terms of the agreement. Any change would require written consent of all three parties. Following discussions, the government, Ivanhoe Mines and Rio Tinto issued a joint statement on October 6, 2011, reaffirming their continued support for the Investment Agreement.

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Exploration

Exploration drilling continued in Q3 11

Ivanhoe Mines continued its drilling program on the Oyu Tolgoi Project during Q3 11 with 12,322 metres of surface resource geology drilling (including geotechnical and mine-development investigation holes), 1,517 metres of underground geotechnical drilling and 6,291 metres of surface exploration diamond drilling.

Four drill rigs are currently conducting surface exploration drilling at Oyu Tolgoi. Two rigs are focused on delineating an initial resource estimate for the Heruga North Deposit, a 2.5-kilometre, mineralized extension of the Heruga Deposit, stretching north from the southern border of the Oyu Tolgoi mining licence to the Southern Oyu deposits.

One rig tested the northern extension to the Hugo Dummett ore body, approximately 150 metres north of the last significant copper and gold mineralization. The fourth rig is testing the Javkhlant prospect at the southwestern end of the Oyu Tolgoi mineralized trend.

Detailed geological mapping also is being conducted in the area east of the Javkhlant prospect. A five-kilometre-long north-east-trending belt of Devonian cover rocks has been recognized. A detailed ground magnetometer survey was completed over the same area to better define the geology.

Exploration at Ulaan Khud North (50% owned)

Copper-molybdenum-gold zone being drilled on Ivanhoe-BHP Billiton joint-venture licence

In March 2011, Ivanhoe Mines and BHP Billiton discovered a new zone of shallow copper-molybdenum-gold mineralization approximately 10 kilometres north of the Oyu Tolgoi Project. The discovery, known as Ulaan Khud North, extended the known strike length of the Oyu Tolgoi structural corridor by an additional three kilometres to the north, to total more than 23 kilometres.

Ulaan Khud North is located on a 19,625-hectare exploration licence that is part of Ivanhoe Mines joint-venture partnership with BHP Billiton, formed in 2005. BHP Billiton has earned a 50% interest in the joint venture, which includes the Ulaan Khud North property, by spending $8 million in exploration costs.

A 3-D induced polarization survey commenced in May 2011 and identified five geophysical targets. Drilling commenced in July 2011 and by the end of Q3 11 a total of 6,878 metres of diamond drilling and 1,321 metres of drilling had been completed in 19 holes.

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MONGOLIA
SOUTHGOBI RESOURCES (58% owned)
Ongoing expansion of SouthGobi s Ovoot Tolgoi coal mine

SouthGobi continues to mine and sell coal produced at its Ovoot Tolgoi Mine in Mongolia s South Gobi Region, approximately 40 kilometres north of the Shivee Khuren-Ceke crossing at the Mongolia-China border.

In Q3 11, SouthGobi had sales of approximately 1.37 million tonnes of coal at an average realized selling price (before royalties and selling fees) of approximately $54 per tonne. This was an improvement over the sale of approximately 190,000 tonnes in Q3 10 at an average realized selling price (before royalties and selling fees) of $37 per tonne. Revenue (net of royalties and selling fees) increased from $6.6 million in Q3 10 to a quarterly record of $60.5 million in Q3 11 due to the increased sales volumes and increased selling prices for individual coal types (a 45% increase for raw semi-soft coking coal and a 57% increase for raw higher-ash coal).

SouthGobi is subject to a 5% royalty on all coal sold based on a set reference price per tonne published monthly by the Government of Mongolia. Effective January 1, 2011, SouthGobi is also subject to a sliding scale additional royalty of up to 5% based on the set reference price of coal. Based on the reference price for the Q3 11, SouthGobi was subject to an average 9% royalty, based on a weighted average reference price of $102 per tonne. SouthGobi s effective royalty rate for Q3 11, based on its average realized sales price of $54 per tonne, was 16%.

Cost of sales of $54.0 million for Q3 11 was $39.1 million higher than Q3 10 ($14.9 million). Cost of sales is comprised of the cost of the product sold, inventory write-downs, mine administration costs, equipment depreciation, depletion of pre-production stripping costs and stock-based compensation costs. The increase from 2010 is largely due to the significantly higher sales volume.

On September 27, 2011, a fire occurred on one Liebherr 996 hydraulic shovel that was commissioned at the Ovoot Tolgoi Mine in December 2009. As a result SouthGobi has written off the full carrying amount of the machine ($10.0 million) and recognized a receivable in Q3 11 equal to the amount of the estimated net insurance proceeds ($12.9 million).

Commissioning of a dry coal-handling facility at the Ovoot Tolgoi Mine is expected before the end of 2011. The facility includes a 300-tonne-capacity dump hopper, which will receive run-of-mine coal and feed a rotary breaker that will size the coal to a maximum of 50 millimetres and reject oversize ash. The facility also will include dry-air separation as an additional stage, through the insertion of dry-air separation modules, and is expected to be completed by mid-2012.

On July 5, 2011, SouthGobi entered into an agreement with Ejinaqi Jinda Coal Industry Co. Ltd (Ejin Jinda), a subsidiary of China Mongolia Coal Co. Ltd., to toll wash coal from the Ovoot Tolgoi Mine. The agreement has a duration of five-years from commencement (expected in early 2012) and provides for an annual wet washing capacity of approximately 3.5 million tonnes of input raw coal. Raw higher-ash and medium-ash coals from the Ovoot Tolgoi Mine will be washed at this facility. Washed coal will generally meet semi-soft coking coal specifications.

Ejin Jinda s wet washing facility is located approximately 10 kilometres inside China from the Mongolia-China border crossing (i.e., approximately 50 kilometres from the Ovoot Tolgoi Mine). Medium and higher-ash coals processed through Ovoot Tolgoi s on-site dry coal handling facility will be transported from the Ovoot Tolgoi Mine to the wet washing facility under a separate transport agreement. Based on preliminary samples, SouthGobi expects these coals can then be washed to produce coals with ash in the range of 8% to 11% at a yield of 85% to 90%. Ejin Jinda will charge SouthGobi a single toll washing fee which will cover their expenses, capital recovery and profit.

On August 2, 2011, the State Property Committee of Mongolia awarded the tender to construct a paved highway from Ovoot Tolgoi to the Mongolia-China border to consortium partners NTB LLC and SouthGobi s Mongolian operating subsidiary, SouthGobi Sands LLC (NTB-SGS). NTB-SGS now has the right to conclude a 15-year build, operate and transfer contract under the Mongolian Law on Concessions. NTB-SGS intends to commence construction of the paved highway in early 2012, with an intended carrying capacity upon completion of in excess of 20 million tonnes of coal per year.

AUSTRALIA

IVANHOE AUSTRALIA (59% owned)

Ivanhoe Australia continues to progress its four main projects the Osborne copper-gold project, the Merlin molybdenum and rhenium project, the Mount Elliott copper-gold project and the Mount Dore cathode copper project. All the projects are on granted mining leases.

During Q3 11, work focused on preparation for production at the Osborne and Kulthor mines and Osborne Processing Complex, construction of the Merlin decline and finalizing the Merlin, Osborne Copper-Gold and Mount Dore studies.

Ivanhoe Australia incurred exploration expenses of $47.1 million in Q3 11, compared to $15.7 million in Q3 10. The $31.4 million increase was largely due to work on the Merlin decline tunnel, underground work at the Osborne and Kulthor deposits and work on the various ongoing studies.

Copper-gold production expected in 2012

During Q3 11, Ivanhoe Australia released preliminary results from the Osborne Copper-Gold study, followed by the release of the final results on October 28, 2011, and the filing of the NI 43-101-compliant report on SEDAR (www.sedar.com). The Preliminary Economic Assessment (a Canadian NI 43-101-compliant technical report) evaluated ore sources only for an initial four-year period. Ore included in the initial mine plan is to be sourced from the Osborne, Kulthor and Starra 276 underground mines and the Osborne open-pit. The scheduled start of production from Osborne in the first half of 2012 will be an important strategic step for Ivanhoe Australia, advancing Ivanhoe Australia s status from explorer to producer.

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During Q3 11, a total of 994 metres were advanced on underground development work at Osborne and Kulthor, increasing the total to 1,290 metres. Access to the Kulthor deposit was achieved in late August 2011 and access to the first two production levels was achieved later in Q3 11. At Osborne, the decline development continued and access was completed to two of the three planned production levels. Refurbishment work continued on the Osborne concentrator and shaft area. All major works are expected to be completed in late December 2011.

Merlin molybdenum and rhenium development study

The Merlin molybdenum and rhenium deposit is the lower-most mineralized zone in the Mount Dore deposit, starting near the surface and dipping east at between 45 and 55 degrees. To date, drilling has defined mineralization to vertical depths ranging from 60 to 580 metres and over a strike length of 1,000 metres. The overall mineralized zone at Merlin has an average true width of 3.9 metres and ranges between two and 20 metres. The mineralization zone consists of high-grade breccias and a lower-grade, generally thicker, disseminated zone. Mineralization thins to the north, where the copper, zinc and gold content increases, while to the south it flattens and pinches out. The Little Wizard Deposit represents the southern-most extent of the Merlin molybdenum mineralization of economic interest found to date.

During Q3 11, Ivanhoe Australia achieved a key milestone on the Merlin Project with the completion of the Merlin Pre-Feasibility Study (PFS). Preliminary results of the Merlin PFS were released in September 2011 and the final results were released on October 27, 2011, with the Canadian NI 43-101-compliant report filed on SEDAR (www.sedar.com).

At the end of Q3 11, construction of the Merlin decline was on schedule and budget. The decline face had progressed to 1,439 metres. Cross-cut developments to the ventilation raises also were completed during Q3 11. Work began on an access drive into the Little Wizard deposit, designed to obtain bulk samples for metallurgical and roaster testwork and to better understand the geotechnical aspects of the deposit, which is expected to be completed in Q4 11.

Mount Dore scoping study

During Q3 11, a scoping study for the Mount Dore Cathode Copper project was completed and released. The project pre-feasibility study began during Q3 11 and will examine a number of mining, processing and infrastructure options for the development of the Mount Dore deposit. This study is scheduled for completion in Q1 12.

Mount Elliott scoping study started

During Q3 11, Ivanhoe Australia continued work on the Mount Elliott scoping study, which it plans to finalize in Q1 12. The study will evaluate mining and processing options for the large-tonnage deposit and will identify the future development path for Mount Elliott, including additional resource drilling, metallurgical test work and infrastructure requirements.

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Regional exploration

During Q3 11, work focused on drilling copper-gold targets at Houdini, Trekelano and along the Starra line. There was a total of 8,096 metres of diamond drilling and 6,584 metres of reverse-circulation drilling.

Equity Issuance

In September 2011, Ivanhoe Australia announced that it would raise up to A$150 million of net proceeds and extinguish approximately A$30.6 million of debt owed to Ivanhoe Mines. Ivanhoe Australia has issued approximately A$180 million of new, fully-paid ordinary shares to institutional, sophisticated and accredited investors, including Ivanhoe Mines, at A$1.39 (C$1.41) per share. The placement was completed in two tranches.

In September 2011, Ivanhoe Australia received approximately A$88 million from the institutional placement. Upon closing this tranche, Ivanhoe Mines interest in Ivanhoe Australia was reduced from 62.0% to 53.7%.

The remaining A$92 million from Ivanhoe Mines then was received on November 9, 2011, following approval in a vote at an extraordinary general meeting held on November 8, 2011. Following completion of the share purchase, Ivanhoe Mines now owns 59% of Ivanhoe Australia.

KAZAKHSTAN

Kyzyl Gold Project (50% owned)

Altynalmas Gold holds 100% ownership of the Kyzyl Gold Project in northeastern Kazakhstan. The Kyzyl Gold Project contains the Bakyrchik and Bolshevik gold deposits, as well as a number of satellite deposits. Altynalmas Gold is proceeding to advance the development of the Kyzyl Gold Project following the successful completion of the pre-feasibility study in 2010.

Exploration continuing with 20,000 metres of drilling planned for Q4 11

Altynalmas Gold is continuing its drilling program that is designed to further delineate resources at the Kyzyl Gold Project. A total of 26,729 metres were drilled during Q3 11, making a total of 69,396 metres to date this year. Of this, 17,454 metres were drilled on the Bakyrchik Mining Lease (60,121 metres for the year to date), focusing on exploring the down-dip extensions of known gold resources, as well as on the flanks of known gold lenses. The remaining 9,275 metres were drilled on the Bakyrchik Exploration License as Altynalmas Gold commenced the delineation of numerous satellite deposits surrounding the Bakyrchik deposit.

For the remainder of 2011, an additional 2,500 metres are planned to be drilled on the Mining Lease and a further 17,500 metres are planned on the Exploration License.

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Mine optimization underway

A feasibility study for the Kyzyl Gold Project was received from Fluor Canada Ltd. in September 2011. Altynalmas Gold is proceeding with an optimization study phase prior to the release of a NI 43-101-compliant technical report expected to be completed in early 2012. The optimization study is being conducted in conjunction with further engineering work and further test work on the process of stabilization of wastes containing arsenic. Tender requests have been circulated by Altynalmas Gold for the fabrication of certain long-lead mining equipment.

OTHER EXPLORATION

During Q3 11, Ivanhoe Mines had active exploration programs in Indonesia, Mongolia and the Philippines. These programs are principally being conducted through joint ventures and are focused on porphyry-related copper-gold and epithermal gold-silver deposits. Exploration involved detailed data reviews, field traverses and systematic rock-chip and channel sampling of all properties, trenching and, in some cases, exploration diamond drilling. In addition, Ivanhoe Mines conducted detailed reviews of projects and prospective belts in Latin America. Exploration was ongoing in all these regions at the end of Q3 11.

OTHER DEVELOPMENTS

Rio Tinto s stake in Ivanhoe Mines increases to 49.0%

In August 2011, Ivanhoe Mines received $535.9 million (C$529.5 million) from Rio Tinto following Rio Tinto s decision to exercise its subscription right to acquire an additional 27,896,570 common shares of Ivanhoe Mines. The acquisition raised Rio Tinto s interest in Ivanhoe Mines from 46.5% to 48.5%. The price paid per share was C$18.98. The subscription right was granted to Rio Tinto as a part of the terms of the December 2010 Heads of Agreement negotiated between Ivanhoe Mines and Rio Tinto.

In September 2011, Rio Tinto purchased an additional 3,700,000 common shares of Ivanhoe Mines through a privately negotiated share purchase agreement for C$73.1 million. The price paid per share was C$19.75. The acquisition raised Rio Tinto s interest in Ivanhoe Mines from 48.5% to 49.0%. Rio Tinto s ownership in Ivanhoe Mines is now at the maximum permitted level of 49.0% until the current standstill limitation expires on January 18, 2012.

Rio Tinto s combined investment in Ivanhoe Mines since October 2006 amounts to approximately $4.2 billion through the purchase of shares, the exercise of warrants and a converted debt facility.

Arbitration update

The arbitration proceeding between Ivanhoe Mines and Rio Tinto regarding Ivanhoe Mines Shareholder Rights Plan resumed during June 2011 following the expiry of a six-month suspension that was agreed upon by the companies as part of the Heads of Agreement signed in December 2010.

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Ivanhoe Mines is confident that the rights plan, overwhelmingly supported by 95% of the votes cast by its minority shareholders in May 2010, is not in breach of any of Rio Tinto s existing contractual rights. Ivanhoe Mines is committed to vigorously protecting the rights of all of its shareholders and has received very strong support from institutional shareholders for its insistence that all shareholders be treated fairly during any takeover bid.

Ivanhoe Mines submitted a statement of defence in October 2010 that rejected Rio Tinto s claim and also filed a counter-claim contending that Rio Tinto had breached certain covenants in its October 2006 private placement agreement with Ivanhoe Mines (the PPA). Rio Tinto has filed a statement of defence to the Ivanhoe Mines counterclaim.

Hearings began before the arbitrator on October 4, 2011 and concluded on November 4, 2011. A ruling is expected in December 2011.

Standstill Covenant

Following its purchase of an additional 3,700,000 common shares of Ivanhoe Mines in September 2011, Rio Tinto s ownership in Ivanhoe Mines is now at the maximum permitted level of 49.0% (the Standstill Cap) until the current standstill limitation expires on January 18, 2012. Prior to that time, Rio Tinto is prohibited, subject to certain exceptions, from engaging in certain specified activities (including acquiring additional common shares or making a takeover bid for the Company s outstanding common shares). The only exceptions to the Standstill Cap are acquisitions pursuant to Rio Tinto s existing right of first offer (the ROFO) under the PPA, its right of first refusal on Robert Friedland s Common Shares, and as set out in Section 6.3 of the PPA. The Standstill Cap will remain in effect until January 18, 2012, subject to earlier termination (i) in certain specified circumstances if Rio Tinto exercises its ROFO under the PPA, (ii) if the Company commits a significant breach of the RT/IVN Governance Agreement (as defined below), or (iii) if the Company appoints to its board of directors any individual who is not a Rio Tinto nominee under Part 4 of the PPA or a current director of the Company. After that date, Rio Tinto is free to engage in the currently prohibited activities if it so chooses, subject to the provisions of its contractual agreements with Ivanhoe Mines and the provisions of the Shareholder Rights Plan (assuming it is upheld in the arbitration proceeding discussed above, and not waived by the Ivanhoe Mines board with respect to a third-party bid that does not qualify as a Permitted Bid as defined in the Shareholder Rights Plan). Rio Tinto has agreed that prior to the expiry or termination of the Standstill Cap and subject to certain exceptions it will not exercise its voting rights to increase its representation on the Company s board of directors beyond a number of directors proportionate to its shareholding from time to time. After the expiry or termination of the Standstill Cap, or upon a change of control of the Company in favour of Rio Tinto, (i) one incumbent Company director (selected by the Company s incumbent senior management and acceptable to Rio Tinto) who is independent, but who was not nominated by Rio Tinto pursuant to its rights under Part 4 of the PPA; and (ii) two incumbent Company directors (selected by Robert Friedland and acceptable to Rio Tinto) conditional upon Robert Friedland continuing to own at least 10% of the Company s outstanding Common Shares, may remain as directors of the Company (on a board of 14 directors) and Rio Tinto will exercise its voting power to vote in favour of the election of such directors from time to time until the earlier of January 18, 2014, and the date the Company ceases to be a reporting issuer. Rio Tinto has also agreed that after the termination or expiry of the Standstill Cap or upon a change of control of the Company in favour of Rio Tinto, at least eight of the 14 directors will be independent until January 18, 2014.

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Ivanhoe Mines received proceeds of $103 million from Monywa Trust

In early August 2011, Ivanhoe Mines received $103.0 million as payment for a promissory note from the Monywa Trust.

Ivanhoe Mines transferred the ownership of its former 50% interest in the Monywa Project that was held through its Monywa subsidiary to the independent, third-party Monywa Trust in February 2007. In exchange for the interest, the Monywa Trust issued an unsecured, non-interest-bearing promissory note to a subsidiary of the Company. The sole purpose of the Monywa Trust was to sell the shares of the Monywa subsidiary to one or more arm s length third parties.

Ivanhoe Mines has held no interest in the Monywa Project, and has had no involvement with the administration and operation of the Monywa Project, since 2007.

After acquiring Ivanhoe Mines former interest in the Monywa Project, the independent trustee engaged an independent service provider to help the Monywa Trust identify potential buyers. Ivanhoe Mines had no involvement in discussions between the Monywa Trust and its service provider or with potential purchasers or with the ultimate sale of the interest in July 2011.

The receipt of the $103.0 million has been recorded as a gain on settlement of note receivable as the note receivable had a carrying value of $nil.

B. DISCONTINUED OPERATIONS

In February 2005, Ivanhoe Mines sold the Savage River Iron Ore Project in Tasmania, Australia, for two initial cash payments totalling $21.5 million, plus a series of five contingent, annual payments that commenced on March 31, 2006. From 2006 to 2009, these contingent payments totalled $116.4 million.

During 2010, Ivanhoe Mines received two payments totalling $6.4 million in relation to the fifth annual contingent payment. The original purchaser of the Savage River Project disputed the estimated $22.1 million remaining balance of the fifth annual contingent payment. In 2010, Ivanhoe Mines initiated arbitration proceedings by filing a Request for Arbitration with the ICC International Court of Arbitration. The arbitration hearing was scheduled to occur in December 2011. Subsequent to September 30, 2011, the parties reached an out-of-court settlement whereby the original purchaser will pay Ivanhoe Mines a reduced balance of $13.0 million by March 31, 2012. Accordingly, Ivanhoe Mines wrote-down the carrying value of the contingent income receivable as at September 30, 2011 to $13.0 million. The resulting $9.1 million write-down is recognized as loss from discontinued operations.

To date, Ivanhoe Mines has received $144.4 million in proceeds from the sale of the Savage River Project.

C. ADMINISTRATIVE AND OTHER

General and administrative costs. General and administrative costs in Q3 11 were $21.4 million, an increase of $6.4 million from Q3 10 ($15.0 million). The increase was primarily due to a $4.1 million increase in non-cash expenses in relation to stock options expense over Q3 10.

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Interest income. Interest income in Q3 11 of $5.3 million was $1.5 million higher than Q3 10 ($3.8 million). The increase is largely attributable to a $0.5 million increase in interest income from Ivanhoe Australia and $1.0 million in interest income accrued by Oyu Tolgoi LLC on the Government of Mongolia Treasury Bill and tax prepayments.

Interest expense. Interest expense in Q3 11 of $1.9 million was $4.4 million lower than Q3 10 ($6.3 million). Included in interest expense is $1.6 million (Q3 10 $4.9 million) in interest incurred by SouthGobi on the convertible debenture issued to China Investment Corporation (CIC). The Q3 10 balance also included $1.2 million incurred by Ivanhoe Mines on the Rio Tinto convertible credit facility which was converted in September 2010.

Foreign exchange losses. The $35.6 million foreign exchange loss during Q3 11 was mainly attributable to the weakening of the Canadian and Australian dollars against the U.S. dollar during the quarter. The majority of this foreign exchange loss was unrealized at September 30, 2011.

Share of loss of significantly influenced investees. The $19.3 million share of loss of significantly influenced investees in Q3 11 represents Ivanhoe Mines share of Exco Resources N.L. s loss ($11.0 million) and Ivanhoe Mines share of Altynalmas Gold s loss ($8.3 million).

Change in fair value of embedded derivatives. The $62.1 million change in fair value of embedded derivatives relates to the Q3 11 change in fair value of the SouthGobi CIC convertible debenture s embedded derivative liability.

LIQUIDITY AND CAPITAL RESOURCES

Cash flow

Operating activities. The $124.5 million of cash used in operating activities in Q3 11 primarily was the result of $70.5 million in cash exploration expenditures, $14.5 million in cash general and administrative expenditures and a $56.6 million change in non-cash operating working capital.

Investing activities. The $612.0 million of cash used in investing activities in Q3 11 included $718.8 million used in property, plant and equipment purchases mainly relating to Oyu Tolgoi ($648.4 million) and Ovoot Tolgoi ($59.2 million). The $8.7 million in purchases of long-term investments related to $7.4 million advanced to Altynalmas Gold and $1.3 million paid by SouthGobi for additional shares in Aspire Mining Limited. Offsetting these investments was $103.0 million received on the redemption of the note receivable relating to the Monywa Trust and $20.0 million on the redemption of short-term and other investments.

Financing activities. The $612.0 million in cash provided by financing activities mainly was attributable to $535.9 million received in August 2011 upon Rio Tinto exercising its subscription right and net proceeds of $84.8 million (A$88.0 million) received by Ivanhoe Australia on completion of a placement with institutional investors in September 2011.

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Liquidity and capital resources

At September 30, 2011, Ivanhoe Mines consolidated working capital was $1.2 billion, including cash and cash equivalents of $1.4 billion, compared with working capital of $444.4 million and cash and cash equivalents of $1.3 billion at December 31, 2010. Included in the September 30, 2011, cash and cash equivalents balance of $1.4 billion was $205.8 million of SouthGobi s cash and cash equivalents and $111.8 million of Ivanhoe Australia s cash and cash equivalents, which were not available for the Company s use.

As at November 14, 2011, Ivanhoe Mines consolidated cash position was approximately $1.1 billion. Ivanhoe Mines, based on its current cash position, the value of investments in publicly-traded subsidiaries and the availability of a $1.8 billion interim funding facility with Rio Tinto, believes that its existing funds should be sufficient to fund its minimum obligations, including general corporate activities, for at least the next 12 months.

Ivanhoe Mines, Rio Tinto, a core lending group and their respective advisers are working together to finalize an approximate $4.0 billion project-finance facility for the Oyu Tolgoi Project, with the objective of signing loan documentation in early Q2 12.

The initial core lending group of Mandated Lead Arrangers is comprised of European Bank for Reconstruction and Development, International Finance Corporation, Export Development Canada, BNP Paribas and Standard Chartered Bank. USExim Bank together with its adviser, Standard Bank Multilateral Investment Guarantee Agency, a member of the World Bank Group and the Australian Export Finance and Insurance Corporation recently joined the lender group and have begun their due diligence processes with a view to supporting the financing.

Recent meetings with lenders also were attended by Erdenes MGL LLC, the Mongolian state-owned shareholder that owns 34% of Oyu Tolgoi LLC, and representatives from Oyu Tolgoi LLC.

Preparation of a term sheet outlining the main terms and conditions common to all lenders is well advanced. Lenders have built a financial model and are expected to finalize their technical, marketing, financial, legal, insurance, environmental and social due diligence later this year.

Prior to first drawdown, it is expected that Ivanhoe Mines will utilize a $1.8 billion interim funding facility provided by Rio Tinto as bridge financing. This facility will be repaid from the first drawdown of the project finance facility.

Final terms of a third-party project-finance facility for the Oyu Tolgoi Project remain subject to the approval of the Oyu Tolgoi LLC Board of Directors, the Ivanhoe Mines Board of Directors and the joint Ivanhoe Mines-Rio Tinto Technical Committee.

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Carrying out the development and exploration of the Oyu Tolgoi Project and the various other mineral properties in which Ivanhoe Mines holds interests depends upon Ivanhoe Mines ability to obtain financing through capital markets, sales of non-core assets or other means. Ivanhoe Mines expects to be able to meet its minimum obligations from its existing financial resources, but these funds will not be sufficient to meet all anticipated development expenditure requirements. The terms of the Oyu Tolgoi Investment Agreement obligate Ivanhoe Mines to obtain, within two years of the agreement s Effective Date, project financing sufficient to complete the development activities necessary to establish commercial production. Market volatility in precious and base metals may affect the terms upon which debt financing or equity financing is available. Ivanhoe Mines operates in a region of the world that is prone to economic and political upheaval and instability, which may make it more difficult for Ivanhoe Mines to obtain debt financing from project lenders. Failure to obtain additional financing on a timely basis may cause Ivanhoe Mines to postpone its development plans, forfeit rights in some or all of its properties or joint ventures, reduce or terminate some or all of its operations or force Ivanhoe Mines to raise funds from alternative sources on less favourable terms.

Financial instruments

The estimated fair value of Ivanhoe Mines financial instruments was as follows:

	September 30, 2011		December 31, 2010	
(Stated in $000 s of dollars)	**Carrying Amount**	**Fair Value**	Carrying Amount	Fair Value
Financial Assets				
Held-for-trading				
Short-term investments	**9,998**	**9,998**	98,373	98,373
Long-term investments	**7,552**	**7,552**	10,235	10,235
Other long-term investments	**75,738**	**75,738**	74,936	74,936
Available-for-sale				
Long-term investments	**69,528**	**69,528**	103,431	103,431
Other long-term investments	**219,135**	**219,135**	116,880	116,880
Cost method				
Long-term investments	**16,234**	**16,234**	20,534	20,534
Loans and receivables				
Accounts receivable	**104,512**	**104,512**	65,741	65,741
Investments in companies subject to significant influence				
Long-term investments	**51,062**	**166,896**	16,991	145,981
Financial Liabilities				
Accounts payable and accrued liabilities	**496,028**	**496,028**	260,528	260,528
Amounts due under credit facilities	**52,202**	**52,202**	54,695	54,695
CIC convertible credit facility debt host contract and interest payable	**102,775**	**102,775**	99,719	99,719
Derivatives				
Rights offering derivative liability			766,238	766,238

CIC convertible credit facility embedded derivative liability	**59,178**	**59,178**	154,877	154,877

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The fair value of Ivanhoe Mines long-term investments was determined by reference to published market quotations, which may not be reflective of future values.

The fair value of Ivanhoe Mines other long-term investments, consisting of the Long-Term Notes, the Mongolian Treasury Bill and tax prepayment and long-term Money Market instruments, was determined by considering the best available data regarding market conditions for such investments, which may not be reflective of future values.

The fair value of the rights offering derivative liability was determined by reference to published market quotations, which may not be reflective of future value.

The fair value of the CIC convertible debenture was estimated to approximate the aggregate carrying amount of the CIC convertible credit facility liability and interest payable. This aggregate carrying amount includes the estimated fair value of the embedded derivative liability, which was determined using a Monte Carlo simulation valuation model.

The fair values of Ivanhoe Mines remaining financial instruments were estimated to approximate their carrying values, due primarily to the immediate or short-term maturity of these financial instruments.

The consolidated statements of operations include the following amounts of unrealized gains (losses) from fair value adjustments to financial instruments:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(Stated in $000 s of dollars)	**2011**	2010	**2011**	2010
Unrealized (losses) gains on long-term investments	**$ (2,374)**	$ 1,363	**$ (2,683)**	$ (3,849)
Unrealized gains on other long-term investments	**729**	2,019	**2,124**	3,528
Change in fair value of derivative			**(432,536)**	
Change in fair value of embedded derivatives	**62,058**	49,772	**95,699**	120,633

The consolidated statement of accumulated other comprehensive income includes the following amounts of unrealized gains (losses) from fair value adjustments to financial instruments:

	Three Months Ended September 30,		Nine Months Ended September 30,	
(Stated in $000 s of dollars)	**2011**	2010	**2011**	2010
Changes in fair value of long-term investments	**$ (27,178)**	$ 14,133	**$ (35,319)**	$ 1,694
Changes in fair value of other long-term investments	**3,760**	1,703	**(1,158)**	(11,539)

Ivanhoe Mines is exposed to credit risk with respect to its accounts receivable. The significant concentrations of credit risk are situated in Mongolia and Australia. Ivanhoe Mines does not mitigate the balance of this risk in light of the credit worthiness of its major debtors.

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Ivanhoe Mines is exposed to interest-rate risk with respect to the variable rates of interest incurred on the amounts due under credit facilities. Interest-rate risk is concentrated in Canada. Ivanhoe Mines does not mitigate the balance of this risk.

SHARE CAPITAL

At November 14, 2011, the Company had a total of:

- 738.9 million common shares outstanding.
- 23.9 million incentive stock options outstanding, with a weighted average exercise price of C$13.83 per share. Each option is exercisable to purchase a common share of the Company at prices ranging from C$2.82 to C$27.83 per share.

OUTLOOK

The information below is in addition to disclosures already contained in this report regarding the Company s operations and activities.

Ivanhoe Mines financial performance and its ability to advance its future operations and development plans are heavily dependent on availability of funding, base and precious metal prices, coal prices and foreign exchange rates. Volatility in these markets continues to be unusually high. Accordingly, given the high volatility of commodity prices, it is difficult to forecast commodity prices or customer demand for Ivanhoe Mines products.

Commodity prices and 2011 production

Commodity prices are a key driver of Ivanhoe Mines future earnings and current prices are well above historic averages. Although Ivanhoe Mines is concerned about current global economic conditions, particularly in the United States and Europe, it believes that, over the longer term, as China and India continue to industrialize, those two economies will continue to be major positive factors in the future demand for Ivanhoe Mines commodities. Ivanhoe Mines believes that the long-term price environment for the products that it produces and sells remains favourable.

Copper prices currently are trading approximately 6% higher than 2010 average prices while the Mongolian Tugrik is averaging approximately MNT 1,248 year to date against the US dollar compared with MNT 1,356 against the US dollar in 2010.

It is difficult to reliably forecast commodity prices and customer demand for Ivanhoe Mines products; however, Ivanhoe Mines sales and marketing efforts continue to provide positive results. SouthGobi views market conditions for Q4 11 as similar to those in Q3 11 and has contracted coal at similar or moderately higher prices for the period. However, it is more difficult to forecast volumes for the period. Introduction of coal handling through the dry coal handling facility at Ovoot Tolgoi Mine and wet toll washing at the Ejin Jinda plant at Ceke represent the most fundamental change to operations since mining commenced at Ovoot Tolgoi. Having both plants being commissioned imminently means volumes may be reduced during Q4 11.

IVANHOE MINES LTD.
MANAGEMENT S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS
(Stated in U.S. dollars, except where noted)

Capital expenditures

Ivanhoe Mines continues to review its capital spending in light of current market conditions.

In December 2010, Ivanhoe Mines approved a $2.3 billion capital budget for 2011 the peak year of construction activity on the first phase of the Oyu Tolgoi Project. In addition to the $2.3 billion capital budget, approval also was received for an additional $150 million budget for the 2011 Ulaanbaatar office operations and $100 million for the second tax prepayment that was made to the Mongolian Government in June 2011. At the end of Q3 11, $2.2 billion had been spent in 2011, which was slightly over the budget of $2.1 billion due to the strategy of bringing forward certain activities into 2011.

The Oyu Tolgoi 2012 budget is expected to be reviewed and approved in December 2011 by the Oyu Tolgoi Board of Directors and the Ivanhoe Mines Board of Directors. The 2012 budget is expected to be in line with the costs estimated for 2012 in the overall phase-one budget, taking into account some shifts in timing of certain activities.

Total capital required for phase one from January 1, 2011, to the start of commissioning of the ore processing plant is projected to be $3.5 billion. This includes approximately $2.9 billion to complete construction of the Southern Oyu open-pit mine, processing plant and essential infrastructure, including electrical transmission lines, water, roads, a paved airport runway and Mongolian-designed passenger terminal; it also includes taxes and continued underground development of the phase-two Hugo North mine.

Capital required from January 1, 2011, through to completion of the phase-one, 100,000-tonne-per-day project and the commencement of commercial production is expected to total approximately $4.5 billion. This estimate includes approximately $280 million in remaining contingencies although no provision has been made for foreign exchange variances or cost increases on construction commitments that may be incurred.

Corporate development activities

Ivanhoe Mines continues to assess potential strategic initiatives to create and enhance value for shareholders. This could include, and is not limited to, initiatives related to the Company s subsidiary interests.

The Company had provided Rio Tinto with an ability to acquire up to 49% of the outstanding shares of Ivanhoe Mines until the expiry of the standstill limitation on January 18, 2012. In addition, the Company has implemented a Shareholders Rights Plan that seeks to ensure that all shareholders are treated fairly in any transaction involving a change in control of Ivanhoe Mines and that all shareholders have an equal opportunity to participate in the benefits of a take-over bid. Unless re-confirmed by shareholders at the 2013 annual general meeting, the Plan will terminate upon the conclusion of that meeting.

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Other information

The Company is actively involved in advancing several other projects. These activities are ongoing in 2011, with a focus on subsidiary SouthGobi and its mining of coal; subsidiary Ivanhoe Australia and its focus on commencing copper and gold production in 2012; and Altynalmas Gold and its drilling program at the Kyzyl Gold Project. SouthGobi has sufficient funds to advance its operations and development plans for the remainder of 2011 and into 2012. Ivanhoe Australia believes that its existing funds should be sufficient to fund its minimum obligations; however, it may need additional funds, or may seek to develop opportunities that will require it to raise additional capital from equity or debt sources in the future. Ivanhoe Mines owns 50% of Altynalmas Gold, which is reviewing its operating plans to determine the amount of funding that it will require from its shareholders.

Exchange Rates

The sale of Ivanhoe Mines coal products are denominated in US dollars, while a significant portion of its expenses are incurred in local currencies. Foreign exchange fluctuations can have a significant effect on its operating margins, unless such fluctuations are offset by related changes to commodity prices.

Ivanhoe Mines holds a portion of its cash resources in currencies other than the US dollar. Ivanhoe Mines expects to incur future expenditures in currencies other than the US dollar, most notably in Canadian and Australian dollars. As a result, exchange gains and losses from holding Canadian and Australian dollars primarily are unrealized and are expected to continue to fluctuate significantly given the recent volatility in foreign exchange rates.

OFF-BALANCE-SHEET ARRANGEMENTS

organization and corporate power;

authority with respect to the execution and delivery of the merger agreement, and the due and valid execution and delivery and enforceability of the merger agreement;

required filings and consents and approvals of governmental entities and other persons;

capital structure;

SEC filings;

financial statements;

absence of certain broker's fees;

absence of certain changes and events;

legal proceedings;

certain contracts;

employee matters;

intellectual property;

insurance;

compliance with applicable laws and permits;

taxes and tax returns;

requisite board approval of the Cowen stock issuance;

interested party transactions;

opinion from financial advisors;

accuracy of information supplied or to be supplied for use in this joint proxy statement/prospectus;

requisite stockholder vote; and

operation of unregistered funds managed or advised by Cowen.

The merger agreement also contains certain representations and warranties of Cowen with respect to its wholly owned subsidiary, Merger Sub, including corporate organization, lack of prior business activities, capitalization and authority with respect to the execution and delivery of the merger agreement.

Many of the representations and warranties in the merger agreement are qualified by a "materiality" or "material adverse effect" standard (that is, they will not be deemed to be untrue or incorrect unless their failure to be true or correct, individually or in the aggregate, would, as the case may be, be material or have a material adverse effect). For purposes of the merger agreement, a "material adverse effect" means, with respect to a party, any event, change, circumstances or development which has or is reasonably likely to have a material adverse affect on (i) the ability of such party to timely consummate the transactions contemplated by the merger agreement, including the

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merger, or (ii) the financial condition, results of operations or business of such party and its subsidiaries, taken as a whole, except that the definition of "material adverse effect", with respect to clause (ii) above, excludes any effect that results from:

- subsequent changes in GAAP or regulatory accounting requirements generally applicable to companies in the industries in which a party and its subsidiaries operate (except for changes that are materially and disproportionately adverse to the financial condition, results of operations or business of the party and its subsidiaries, taken as a whole, as compared to other companies in the industry in which that party operates);

- changes in laws (or the interpretation thereof) generally applicable to the industries in which the parties operate (except for changes that are materially and disproportionately adverse to the financial condition, results of operations or business of a party and its subsidiaries, taken as a whole, as compared to other companies in the industry in which that party operates);

- actions or omissions taken with the prior written consent of the other party or expressly required by the merger agreement;

- changes in global, national or regional political conditions (including acts of terrorism or war) or general business, economic or market conditions, including changes generally in prevailing interest rates, currency exchange rates, credit markets and price levels or trading volumes in the United States or foreign securities markets, in each case generally affecting the industries in which a party or its subsidiaries operate (except for changes that are materially and disproportionately adverse to the financial condition, results of operations or business of such party and its subsidiaries, taken as a whole, as compared to other companies in the industry in which that party operates);

- changes in the underlying securities prices in the portfolios of a party or its subsidiaries;

- the execution or the public disclosure of the merger agreement or the transactions contemplated thereby, including resulting losses of employees, if any;

- earthquakes, hurricanes, tornados other natural disasters;

- any action taken by a party as contemplated or permitted by the merger agreement or with consent of the other party;

- any decline in the market price or change in trading volume of the capital stock of a party or any failure to meet publicly announced revenue or earnings projections (however, the underlying facts or occurrences giving rise or contributing to such changes will be taken into account in determining whether there has been a material adverse effect); or

- any litigation arising from or relating to the merger agreement or the transactions contemplated thereby.

Conduct of Business

Each of LaBranche and Cowen has agreed to certain covenants in the merger agreement restricting the conduct of its business between the date of the merger agreement and the effective time of the merger. In general, LaBranche has agreed to (i) conduct in all material respects its business in the ordinary course (as defined in the merger agreement) and in compliance with applicable law, (ii) maintain in all material respects its assets, properties, rights and operations in accordance with present practice in a condition suitable for their current use, and (iii) use commercially reasonable efforts to preserve substantially intact the business organization of LaBranche and to preserve, in all material respects, the present relationships of LaBranche with all persons with whom it has a significant business relationship.

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In addition, LaBranche has agreed to specific restrictions relating to the conduct of its business between the date of the merger agreement and the effective time of the merger, including the following (subject, in each case, to exceptions specified below and in the merger agreement or previously disclosed in writing to the other party as provided in the merger agreement):

- make any material change in the conduct of its business or enter into any transaction other than in the ordinary course of business;
- make any change in any of its organizational documents; issue any additional shares of capital stock (other than upon the exercise of options outstanding on the date of the merger agreement) or other equity securities (or other securities exchangeable or convertible into equity securities) or grant any option, warrant or right to acquire any capital stock or other equity interests; or alter in any way its outstanding securities or its capitalization;
- amend any of its organizational documents or otherwise take any action to exempt any person from any applicable takeover statute or other restrictive provisions of its organizational documents or terminate, amend or waive any provisions of any confidentiality or standstill agreements;
- make any sale, assignment, transfer, abandonment, sublease or other conveyance of its material assets or rights other than in the ordinary course of business;
- subject any of its material assets, properties or rights to any lien;
- redeem, retire, purchase or otherwise acquire, directly or indirectly, any shares of the capital stock, membership interests or partnership interests or other ownership interests of it or its subsidiaries or declare, set aside or pay any dividends or other distribution in respect of such shares or interests;
- acquire, lease or sublease any material assets or properties (including any real property), other than in the ordinary course of business;
- except as required by law or by the terms of certain existing benefit plan:
  - increase the compensation or benefits of any directors, officers, consultants or employees;
  - establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, employment, termination, severance, stock incentive or other plan, agreement, trust, fund, policy or arrangement for the benefit of any director, officer, consultant or employee;
  - increase the benefits payable under any existing severance or termination pay policies or employment or other agreements;
  - take any affirmative action to accelerate the vesting of any stock-based compensation;
  - grant any awards under any bonus, incentive, performance or other compensation plan or arrangement or benefit plan;

take any action to fund or in any other way secure the payment of compensation or benefits under any existing benefit plan;

make any material determinations other than in the ordinary course of business under any existing benefit plan;

grant or promise any tax offset payment award under any existing benefit plan;

make any loan or cash advance to, or engage in any transaction with, any current or former director, officer, employee, consultant or independent contractor;

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- hire any key officers, consultants or employees; or

- terminate the employment of any officer, consultant or employee to the extent that such termination would result in any liability to LaBranche or Cowen, following the closing of the merger, in excess of $50,000.

- enter into any agreement, contract or commitment to spend in excess of $50,000 (or purchase goods and/or services with a value in excess of $50,000) over the term of such agreement, contract or commitment or contractually commit, in any given month, to make capital expenditures in excess of $250,000 in the aggregate, in each case, other than in the ordinary course of business;

- pay, lend or advance any amount to, or sell, transfer or lease any properties or assets to, or enter into any agreement or arrangement with, any of its affiliates (other than its wholly owned subsidiaries);

- fail to keep in full force and effect insurance comparable in amount and scope to coverage maintained;

- make any material change in any method of accounting or accounting principle, method, estimate or practice except for any such change required by reason of a concurrent change in GAAP or required by applicable law, or write off as uncollectible any material accounts receivable other than in the ordinary course of business;

- make or change any material tax election, change an annual accounting period, adopt or change any material accounting method, file any material amended tax return, enter into any closing agreement, settle any material tax claim or assessment relating to it or any of its subsidiaries, surrender any right to claim a material refund of taxes or consent to any extension or waiver of the limitation period applicable to any tax claim or assessment relating to it or any of its subsidiaries except in the ordinary course of business;

- settle, release or forgive any material claim, litigation or regulatory proceeding or waive any right thereto other than with respect to disputes with customers and vendors in the ordinary course of business;

- lend any money, or incur or guarantee any indebtedness for borrowed money (other than letters of credit in the ordinary course of business) or enter into any material capital lease obligation; or

- agree to take any action prohibited by any of the conduct of business covenants discussed above.

In general, Cowen has agreed to conduct its business in all material respects (i) in the ordinary course of business and (ii) in compliance with applicable laws.

In addition, Cowen has agreed to specific restrictions relating to the conduct of its business between the date of the merger agreement and the effective time of the merger, including the following (subject, in each case, to exceptions specified below and in the merger agreement or previously disclosed in writing to the other party as provided in the merger agreement):

- make any change in any of its organizational documents;

- other than with respect to restricted shares of, or options to purchase, Cowen Class A common stock or Cowen restricted stock units, redeem, retire, purchase or otherwise acquire, directly or indirectly, any shares of the capital stock, membership interests or partnership interests or other ownership interests of it or its subsidiaries or declare, set aside or pay any dividends

or other distribution in respect of its shares or interests;

other than in connection with the exercise or grants of restricted shares of, or options to purchase, Cowen Class A common stock or Cowen restricted stock units (provided that Cowen shall not increase the number of shares issuable pursuant to the Cowen stock plans): (1) issue any additional shares of capital stock, membership interests or partnership interests or other equity securities or grant any option, warrant or right to acquire any capital stock, membership interests or partnership interests or other equity securities or issue any security convertible into or exchangeable for such securities, in excess of, in the aggregate, 7,500,000 shares of Cowen capital stock or other equity securities, including any shares of Cowen capital stock issuable upon conversion of such equity securities or (2) alter in any way any of its outstanding securities or make any change in outstanding shares of capital stock, membership interests or partnership interests or other ownership interests or its capitalization, whether by reason of a reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, stock dividend or otherwise, other than in connection with the exercise of restricted shares of, or options to purchase, Cowen Class A common stock or Cowen restricted stock units;

directly or indirectly acquire by merging or consolidating with, or by purchasing all of or a controlling equity interest in, or by any other manner, any other company or division, business or equity interest of any other company if such acquisition would reasonably be expected to impair, in any material respect, the ability of the parties to satisfy any of the conditions to the merger set forth in the merger agreement; or

agree to take any action prohibited by any of the conduct of business covenants made in the merger agreement.

No Solicitation of Alternative Proposals

Each of LaBranche and Cowen has agreed that, from the time of the execution of the merger agreement until the earlier of the termination of the merger agreement or the completion of the merger, it and its subsidiaries will not and will not authorize its affiliates, directors, officers, employees, representatives or other intermediaries to, directly or indirectly, (i) solicit, initiate, knowingly facilitate or encourage the submission of inquiries, proposals or offers relating to an acquisition proposal, (ii) enter into any agreement to facilitate or consummate any acquisition proposal, or approve or endorse any acquisition proposal or abandon, terminate or fail to consummate the merger or (iii) participate in any discussions or negotiations in connection with any acquisition proposal, or furnish or provide any non-public information with respect to its business, properties or assets in connection with any acquisition proposal. The merger agreement also requires both LaBranche and Cowen (a) to cease, and cause to be terminated, all discussions or negotiations with any person conducted prior to the execution of the merger agreement with respect to any acquisition proposal, (b) to not, and cause each of its subsidiaries not to, terminate, waive, amend or modify any provision of any existing standstill or confidentiality agreement and (c) to not take any action to exempt any person from any applicable takeover statute or other restrictive provisions contained in any applicable laws or otherwise cause such restrictions not to apply.

An "acquisition proposal" with respect to LaBranche means any offer or proposal for a merger, reorganization, recapitalization, consolidation, share exchange, business combination or other similar transaction involving LaBranche or any of its subsidiaries or any proposal or offer to acquire, directly or indirectly, securities representing more than 15% of the voting power of LaBranche or more than 15% of the assets of LaBranche and its subsidiaries.

An "acquisition proposal" with respect to Cowen means any offer or proposal for a merger, reorganization, recapitalization, consolidation, share exchange, business combination or other similar transaction involving Cowen or any of its subsidiaries or any proposal or offer to acquire, directly or indirectly, securities representing more than 35% of the voting power of Cowen or more than 35% of the assets of Cowen and its subsidiaries.

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Notwithstanding the restrictions described above, prior to the applicable stockholder meeting, the board of directors of each of LaBranche and Cowen is permitted to furnish information with respect to LaBranche or Cowen, as applicable, and enter into negotiations or discussions with a person who has made an acquisition proposal if the board of directors of such party reasonably determines in good faith that such acquisition proposal constitutes or would reasonably be expected to lead to a superior proposal.

A "superior proposal" with respect to LaBranche means any proposal made by a third party to enter into any transaction involving an "acquisition proposal" with respect to LaBranche that LaBranche's board of directors determines in its good faith judgment (after consultation with LaBranche's outside legal counsel and financial advisor) (i) to be more favorable to LaBranche's stockholders than the merger agreement and the merger, taking into account all terms and conditions of such transaction (including any break-up fees, expense reimbursement provision and financial terms, the anticipated timing, conditions and prospects for completion of such transaction) and (ii) is reasonably likely to be completed, except that the reference to "15%" in the definition of "acquisition proposal" with respect to LaBranche shall be deemed to be a reference to "50%".

A "superior proposal" with respect to Cowen means any proposal made by a third party to enter into any transaction involving an "acquisition proposal" with respect to Cowen that Cowen's board of directors determines in its good faith judgment (after consultation with Cowen's outside legal counsel and financial advisor) to be more favorable to Cowen's stockholders than the merger agreement and the merger, taking into account all terms and conditions of such transaction (including any break-up fees, expense reimbursement provision and financial terms, the anticipated timing, conditions and prospects for completion of such transaction).

However, LaBranche can enter into an agreement (other than a confidentiality agreement) with respect to an acquisition proposal upon a good faith determination by the LaBranche board of directors, after consultation with its financial advisors and outside legal counsel, that the proposal is a superior proposal and concurrently pays Cowen a termination fee of $6,250,000.

The merger agreement requires that the parties notify each other within 24 hours of, among other things, the receipt of, or inquiry or discussion regarding, any acquisition proposal or request for non-public information. Any such notification shall include the material terms and conditions of any such acquisition proposal, request, inquiry or discussion. In addition, the merger agreement requires the parties to continue to inform each other of material changes to any acquisition proposal and provide to each other, within 24 hours of receipt, all correspondence and other written material received from any third party in connection with an acquisition proposal.

Changes in Board Recommendations

The board of directors of each of LaBranche and Cowen has agreed that it will not (i) withdraw or modify in a manner adverse to the other party the recommendation by such board with respect to the transactions contemplated by the merger agreement, as applicable, (ii) recommend the approval or adoption of any acquisition proposal or (iii) propose publicly to recommend any agreement regarding an acquisition proposal.

Notwithstanding the restrictions described above, prior to obtaining the relevant stockholder approval, the board of directors of each of LaBranche and Cowen is permitted to withdraw or modify its recommendation of the merger agreement or the merger in response (i) to an intervening event or development that affects the business, assets or operations of LaBranche or Cowen, respectively, to the extent such event or development was not known by such party's board of directors as of the date of the merger agreement or (ii) an acquisition proposal that was unsolicited and did not result from a breach of the restrictions described above, if the board of directors of LaBranche or Cowen, as applicable, has determined in good faith, after consultation with its financial advisors and outside legal

counsel, that (x), in the case of (ii) above, such acquisition proposal is a superior proposal and (y) in the case of (i) and (ii) above, the failure to take such action would be inconsistent with its fiduciary duties under applicable law to the stockholders of LaBranche or Cowen, as applicable. Prior to taking any such action (or, in the case of LaBranche, the entry into an agreement with respect to an acquisition proposal), such board of directors must inform the other party in writing of its decision to change its recommendation, provide the material terms and conditions of any acquisition proposal to the other party if an acquisition proposal has been made prior to such action and, in any event, allow, in the case of LaBranche's board of directors, five business days, and, in the case of Cowen's board of directors, three business days, to elapse following the other party's receipt of such written notice, during which time the other party may negotiate changes to the merger agreement. Upon any amendment to the amount or form of consideration of an acquisition proposal with respect to LaBranche, an additional three business days must be provided during which time Cowen may negotiate changes to the merger agreement.

If the board of directors of Cowen withdraws (or amends or modifies in a manner adverse to LaBranche) its recommendation, Cowen will nonetheless continue to be obligated to hold its stockholders meeting and submit the Cowen stock issuance to its stockholders. If the board of directors of LaBranche withdraws (or amends or modifies in a manner adverse to Cowen) its recommendation, LaBranche will nonetheless continue to be obligated to hold its stockholders meeting and submit the merger agreement to its stockholders unless LaBranche terminates the merger agreement, after having complied with its non-solicitation obligations and, concurrently with such termination, LaBranche enters into a definitive agreement with respect to a superior proposal and pays Cowen a termination fee of $6,250,000.

Efforts to Obtain Required Stockholder Votes

LaBranche has also agreed to hold its special stockholders meeting and, subject to the qualifications described above, to use its reasonable best efforts to obtain stockholder approval and adoption of the merger agreement and approval of the merger. The board of directors of LaBranche has approved the merger agreement and declared the merger agreement and the transactions contemplated thereby, including the merger, advisable and in the best interests of LaBranche and its stockholders and adopted resolutions directing that the merger agreement be submitted to the LaBranche stockholders for their consideration. LaBranche is required to submit the merger agreement to its stockholders even if LaBranche's board of directors has withdrawn (or amended or modified in a manner adverse to Cowen) its approval or recommendation, unless LaBranche terminates the merger agreement and, concurrently, enters into a definitive agreement with respect to a superior proposal, after complying with its obligations with respect to non-solicitation and pays Cowen a termination fee of $6,250,000.

Cowen has agreed to hold its special stockholders meeting and, subject to the qualifications described above, to use its reasonable best efforts to obtain stockholder approval of the Cowen stock issuance. The merger agreement requires Cowen to submit this proposal to a stockholder vote even if its board of directors withdraws (or amends or modifies in a manner adverse to LaBranche) its approval or recommendation of such proposal. The Cowen board of directors has approved and adopted resolutions directing that such proposal be submitted to Cowen stockholders for their consideration.

Efforts to Complete the Merger

LaBranche and Cowen have each agreed to:

- promptly prepare, review and file all necessary documentation, effect all applications, notices, petitions and filings, obtain all permits, consents, approvals, clearances and authorizations of all

third parties, governmental entities and regulatory agencies that are necessary or advisable to consummate the transactions contemplated by the merger agreement, including the merger and the Cowen stock issuance;

promptly inform each other of any oral or written communication received from, or given to, any governmental entity; and

furnish each other with copies of all correspondence, filings and written communications between them or their subsidiaries and any governmental entity or its staff with respect to the merger agreement or the merger;

Notwithstanding the foregoing, Cowen is not required under the merger agreement to agree to any terms, conditions or modifications (including having to cease, sell or otherwise dispose of any assets or business or to hold any such assets or business separate) with respect to obtaining any consents, permits, waiver, approvals, authorizations or orders in connection with the merger or the consummation of the transactions contemplated by the merger agreement that would result in, or reasonably be expected to result in, either individually or in the aggregate, a material adverse effect on Cowen and its subsidiaries, taken as a whole, or LaBranche and its subsidiaries, taken as a whole.

Governance Matters After the Merger

Cowen has agreed to take all action necessary (including increasing the number of directors that constitutes its board of directors) to provide that as of the effective time of the merger, the board of directors of Cowen will include George M.L. LaBranche, IV and Katherine Elizabeth Dietze.

Employee Benefits Matters

LaBranche and Cowen have agreed that, from the date of completion of the merger until the twelve-month anniversary of such date, Cowen will provide and employees of LaBranche and its subsidiaries who remain employed by Cowen or its affiliates with (i) base salary or hourly wage rates that, on an individual-by individual basis, are no less favorable than those provided to such employees immediately prior to the merger, and (ii) employee benefits that are the same as, or substantially comparable in the aggregate to, either (x) the employee benefits provided by the LaBranche and its subsidiaries to such employees immediately prior to the merger (other than benefits under any stock option or other equity-based plans) or (y) the employee benefits provided by Cowen and its affiliates to similarly situated employees during such twelve (12) month period. Additionally, if the employment of an employee of LaBranche or any of its subsidiaries is terminated by Cowen or any of its affiliates without "cause" during the twelve-month period immediately following the merger, Cowen will provide specified severance benefits to such terminated employee based on the employee's position and years of service, compensation and benefits that are no less favorable than the compensation and benefits provided to those employees immediately prior to the completion of the merger.

LaBranche and Cowen have also agreed that, with respect to those employees of LaBranche and its subsidiaries who continue to be employed by Cowen or its affiliates following completion of the merger:

for purposes of Cowen benefit plans in which the employees participate, service with LaBranche prior to the effective time of the merger will be treated as service with Cowen; and

for purposes of each Cowen benefit plan in which any such LaBranche employee or his or her eligible dependents is eligible to participate after the completion of the merger, Cowen will waive any pre-existing condition limitations and any waiting period limitations under welfare benefit plans, policies or practices of Cowen to the extent that such employees participated in the comparable welfare plan of LaBranche immediately prior to the merger and credit any deductibles, co-payment amounts and out-of-pocket expenses incurred by such employees and

their beneficiaries and dependents during the portion of the plan year prior to participation in such benefit plans provided by Cowen.

Nothing in the merger agreement, however, will require Cowen to continue any specific plans or to continue the employment of any specific person following the completion of the merger.

Indemnification and Insurance

The merger agreement requires Cowen and Merger Sub LLC to jointly and severally indemnify any person who is now an officer or director of LaBranche, has been at any time prior to completion of the merger an officer or director of LaBranche or who was serving at the request of LaBranche as an officer or director of another corporation, joint venture or other enterprise, to the extent such person is indemnified, as of February 16, 2011, under LaBranche's organizational documents or indemnification agreements, if applicable. Cowen and Merger Sub LLC shall jointly and severally ensure that the organizational documents of Merger Sub shall contain provisions no less favorable with respect to indemnification, advancement of expenses and exculpation of present and former directors, officers, employees and agents of LaBranche than are presently set forth in the LaBranche organizational documents.

The merger agreement requires Cowen to cause Merger Sub LLC, as the surviving company, to maintain for a period of six years after completion of the merger LaBranche's current directors' and officers' liability insurance policies, or policies of at least the same coverage and amount and containing terms and conditions that are not less advantageous than the current policies, with respect to acts or omissions occurring prior to completion of the transactions. However, Merger Sub LLC, as the surviving company, is not required to incur an annual premium expense greater than 250% of the annual premiums currently paid by LaBranche. If Merger Sub LLC is unable to maintain a policy because the annual premium expense is greater than 250% of LaBranche's current annual directors' and officers' liability insurance premiums, Merger Sub LLC is obligated to obtain as much insurance as is available for the amount that is 250% of LaBranche's annual premiums. LaBranche may, with the prior written consent of Cowen, purchase a "tail" policy prior to the completion of the merger. If such a "tail policy" is purchased, LaBranche and Cowen, as the surviving company, shall have no further obligation to maintain LaBranche's current directors' and officers' liability insurance policies.

Treatment of LaBranche Stock Options and Other Stock Awards

Upon completion of the merger, each of the 230,000 outstanding options to purchase LaBranche common stock granted pursuant to the previously terminated Amended and Restated LaBranche & Co Inc. 1999 Equity Incentive Plan will be canceled for no consideration. LaBranche will also take all steps necessary to cause the LaBranche & Co Inc. 2010 Equity Incentive Plan to be terminated no later than the completion of the merger.

Other Covenants and Agreements

The merger agreement contains certain other covenants and agreements, including covenants relating to:

- cooperation between LaBranche and Cowen in the preparation of this joint proxy statement/prospectus;
- confidentiality and access by each party to certain information about the other party during the period prior to the effective time of the merger;

neither party knowingly take any action or fail to take any action, which action or failure to act would cause the transactions to fail to qualify as a reorganization within the meaning of the Code;

each party's use of its reasonable best efforts to provide the officers' certificates as may be requested by its counsel and to obtain the opinion from its legal counsel that the transactions qualify as a reorganization within the meaning of the Code;

LaBranche's delivery to Cowen of a statement setting forth LaBranche's good faith calculation of the Company Consolidated Tangible Book Equity, calculated as of the delivery date, no later than five business days prior to effective time of the merger,

cooperation between LaBranche and Cowen in the defense or settlement of any shareholder litigation relating to the merger;

cooperation between LaBranche and Cowen in connection with public announcements;

LaBranche's agreement not to adopt or approve a shareholder rights plan unless it expressly does not apply (i) to Cowen or its affiliates or (ii) to the acquisition of LaBranche common stock by Cowen or its affiliates;

Cowen's use of its commercially reasonable efforts to cause the shares of Cowen Class A common stock issuable to LaBranche common stockholders in connection with the merger to be approved for quotation on the NASDAQ Global Market System; and

causing any dispositions of LaBranche common stock resulting from the merger and any acquisitions of Cowen Class A common stock resulting from the merger by each individual who may become subject to reporting requirements under the securities laws to be exempt from Section 16(b) of the Exchange Act.

Conditions to Completion of the Merger

The obligations of each of LaBranche and Cowen to effect the merger are subject to the satisfaction, or waiver, of the following conditions:

the approval and adoption of the merger agreement and approval of the merger by holders of a majority of the outstanding shares of LaBranche common stock at the LaBranche special meeting;

the approval of the Cowen stock issuance by holders of a majority of the outstanding shares of Cowen Class A common stock present in person or represented by proxy and entitled to vote thereon at the Cowen special meeting;

the absence of any order, injunction or regulation by a court or other governmental entity that makes illegal or prohibits the consummation of the merger, provided, however, this condition will not be available to any party whose failure to fulfill its obligations under the merger agreement regarding cooperation in preparing and filing all necessary documentation in connection with the receipt of all required third party and governmental entity consents and approvals as described under the section titled " Efforts to Complete the Merger";

the waiting period (and any extension thereof) applicable to the merger under the antitrust laws of the United States having expired or been earlier terminated;

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- the shares of Cowen Class A common stock to be issued to LaBranche stockholders pursuant to the merger having been approved for quotation or listing on the NASDAQ Global Market System; and

- the effectiveness of the registration statement of which this joint proxy statement/prospectus forms a part and the absence of a stop order or proceedings threatened or initiated by the SEC for that purpose.

In addition, the obligations of LaBranche to effect the merger are subject to the satisfaction, or waiver, of the following additional conditions:

- the representations and warranties of Cowen relating to capital structure being true and correct in all respects (other than immaterial misstatements or omissions) as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date);

- the representations and warranties of Cowen relating to the absence of certain changes and events and the requisite stockholder vote being true and correct in all respects, as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date);

- all other representations and warranties of Cowen being true and correct both as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date), other than where the failure of these representations and warranties to be true and correct (without giving effect to any materiality qualifications contained in such representations and warranties) does not have, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Cowen;

- Cowen having performed or complied with, in all material respects, all its agreements and covenants under the merger agreement at or prior to the consummation of the merger;

- receipt of a certificate executed by the chief executive officer and chief financial officer of Cowen certifying as to the satisfaction of the conditions described in the preceding four bullets;

- the non-occurrence of any event or development having a material adverse effect on Cowen since February 16, 2011;

- the receipt, and continued validity, of all required governmental entity consents and approvals, as well as the expiration of all statutory waiting periods in respect thereof; and

- receipt of a written opinion from Weil, Gotshal & Manges, LLP to the effect that the merger and the second-step merger, taken together, will be treated as a "reorganization" within the meaning of Section 368(a) of the Code.

In addition, the obligations of Cowen to effect the merger are subject to the satisfaction, or waiver, of the following additional conditions:

- LaBranche has, as of the business day immediately prior to the closing of the merger, (i) a Company Consolidated Tangible Book Equity Value (as such term is defined in the merger agreement) of at least $193,000,000, (ii) a ratio of the aggregate value of the assets reflected on its unaudited balance sheet to its Company Consolidated Tangible Book Equity Value of no greater than 4.5:1, and (iii) assets reflected on its unaudited balance sheet of no more than $920,000,000 in the aggregate;

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- the representations and warranties of LaBranche relating to capital structure, other than the representations described in the preceding bullet, being true and correct in all respects (other than immaterial misstatements or omissions) as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date);

- the representations and warranties of LaBranche relating to the absence of certain changes and events and the requisite stockholder vote being true and correct in all respects, as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date);

- all other representations and warranties of LaBranche being true and correct both as of the date of the merger agreement and as of the date of the closing of the merger (other than those representations and warranties that were made only as of an earlier date, which need only be true and correct as of that date), other than where the failure of these representations and warranties to be true and correct (without giving effect to any materiality qualifications contained in such representations and warranties) does not have, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on LaBranche;

- LaBranche having performed or complied with, in all material respects, all its agreements and covenants under the merger agreement at or prior to the consummation of the merger;

- receipt of a certificate executed by the chief executive officer and chief financial officer of LaBranche certifying as to the satisfaction of the conditions described in the preceding five bullets;

- receipt of a written opinion from Willkie Farr & Gallagher LLP to the effect that the merger and the second-step merger, taken together, will be treated as a "reorganization" within the meaning of Section 368(a) of the Code;

- the non-occurrence of any event or development having a material adverse effect on LaBranche since February 16, 2011; and

- the receipt, and continued validity, of all required governmental entity consents and approvals, as well as the expiration of all statutory waiting periods in respect thereof.

Termination of the Merger Agreement

The merger agreement may be terminated at any time prior to the effective time of the merger, and, except as described below, whether before or after the receipt of the required stockholder approvals, under the following circumstances:

- by mutual written consent of LaBranche and Cowen;

- by either LaBranche or Cowen:

  - if the merger is not consummated by August 31, 2011; provided, however, that this right to terminate the merger agreement will not be available to any party whose failure to fulfill any obligation under the merger agreement has been the primary cause of the failure to close by the termination date;

if any governmental entity issues a final and nonappealable order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting or making illegal the consummation of the merger or any other transaction contemplated by the merger agreement, provided, that the party seeking to terminate pursuant to this right used

its commercially reasonable efforts to remove such remove such restraint or prohibition; and that this right to terminate the merger agreement will not be available to any party whose breach of any provision of the merger agreement results in the imposition of such order, decree or ruling or the failure of such order, decree or ruling to be resisted, resolved or lifted;

if the LaBranche stockholders fail to approve and adopt the merger agreement and approve the merger at the LaBranche special meeting;

if the Cowen stockholders fail to approve the Cowen stock issuance at the Cowen special meeting;

by Cowen (i) if prior to the LaBranche special meeting the board of directors of LaBranche withdraws (or amends or modifies in a manner adverse to Cowen) its approval or recommendation of the merger agreement or the merger, (ii) LaBranche fails to call or hold the LaBranche special meeting, or (iii) LaBranche intentionally and materially breaches any of its obligations under the merger agreement regarding third-party acquisition proposals as described under the section titled "The Merger Agreement No Solicitation of Alternative Proposals";

by LaBranche if (i) prior to the Cowen special meeting the board of directors of Cowen withdraws (or amends or modifies in a manner adverse to LaBranche) its approval or recommendation of the Cowen stock issuance, (ii) Cowen fails to call or hold the Cowen special meeting, or (iii) Cowen intentionally and materially breaches any of its obligations under the merger agreement regarding third-party acquisition proposals as described under the section titled "The Merger Agreement No Solicitation of Alternative Proposals";

by LaBranche upon a breach of any representation, warranty, covenant or agreement on the part of Cowen contained in the merger agreement such that the conditions to LaBranche's obligations to complete the merger are not satisfied and that either (i) the breach is not reasonably capable of being cured or (ii) in the case of a breach of a covenant or agreement, if such breach is reasonably capable of being cured, such breach has not been cured prior to the earlier of (a) 30 days following notice of such breach or (b) the termination date. However, LaBranche does not have this right to terminate the merger agreement if it is then in material breach of any of its representations, warranties, covenants or agreements contained in the merger agreement;

by Cowen upon a breach of any representation, warranty, covenant or agreement on the part of LaBranche contained in the merger agreement such that the conditions to Cowen's obligations to complete the merger are not satisfied and that either (i) the breach is not reasonably capable of being cured or (ii) in the case of a breach of a covenant or agreement, if such breach is reasonably capable of being cured, such breach has not been cured prior to the earlier of (a) 30 days following notice of such breach or (b) the termination date. However, Cowen does not have this right to terminate the merger agreement if it is then in material breach of any of its representations, warranties, covenants or agreements contained in the merger agreement;

by LaBranche if, concurrently, it (i) enters into a definitive agreement with respect to a superior proposal after complying with its applicable obligations under the merger agreement regarding third-party acquisition proposals as described under the section titled "The Merger Agreement No Solicitation of Alternative Proposals", and (ii) pays Cowen a termination fee of $6,250,000.

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Termination Fees and Expenses; Liability for Breach

LaBranche will be obligated to pay a termination fee of $6,250,000 to Cowen if:

- Cowen terminates the merger agreement because prior to the LaBranche special meeting, the board of directors of LaBranche withdraws, or modifies or amends in an adverse manner, its approval or recommendation of the merger agreement or the merger;

- Cowen terminates the merger agreement because LaBranche fails to call or hold the LaBranche special meeting in accordance with the terms of the merger agreement;

- either LaBranche or Cowen terminates the merger agreement because (i) the merger is not completed prior to August 31, 2011 or (ii) the required vote of LaBranche stockholders is not obtained, and, in each case, (a) at or prior to such event, an acquisition proposal with respect to more than 50% of the stock or assets of LaBranche was made known or proposed to LaBranche or otherwise publicly disclosed and (b) within 12 months after such termination LaBranche enters into an agreement with respect to that acquisition proposal;

- Cowen terminates the merger agreement because of LaBranche's intentional and material breach of its material non-solicitation restrictions and (a) at or prior to such event, an acquisition proposal with respect to more than 50% of the stock or assets of LaBranche was made known or proposed to LaBranche or otherwise publicly disclosed and (b) within 12 months after such termination LaBranche enters into an agreement with respect to that acquisition proposal; or

- LaBranche terminates the agreement to concurrently enter into a definitive agreement with respect to a superior proposal.

In the case of the third and fourth bullets above, the amount of the termination fee payable will be offset by any previous payment by LaBranche of Cowen's fees and expenses, as described below.

LaBranche would be required to pay Cowen's actual and reasonably documented out-of-pocket fees and expenses (up to $1,500,000) if the merger agreement is terminated by (i) either LaBranche or Cowen because the required vote of LaBranche stockholders is not obtained or (ii) Cowen because LaBranche has breached any of its representations, warranties, covenants or agreements, such that the conditions to Cowen's obligations to complete the merger would not be satisfied unless the breach is capable of being, and is, cured within thirty days of notice of the breach.

Cowen will be obligated to pay a termination fee of $6,250,000 to LaBranche if:

- either LaBranche or Cowen terminates the merger agreement because (i) the merger is not completed prior to August 31, 2011 or (ii) the required vote of Cowen stockholders is not obtained, and, in each case, (a) at or prior to such event, an acquisition proposal with respect to more than 50% of the stock or assets of Cowen was made known or proposed to Cowen or otherwise publicly disclosed and (b) within 12 months after such termination Cowen enters into an agreement with respect to that acquisition proposal;

- LaBranche terminates the merger agreement because of Cowen's intentional and material breach of its material non-solicitation restrictions and (a) at or prior to such event, an acquisition proposal with respect to more than 50% of the stock or assets of Cowen was made known or proposed to Cowen or otherwise publicly disclosed and (b) within 12 months after such termination Cowen enters into an agreement with respect to that acquisition proposal;

- LaBranche terminates the merger agreement because prior to the Cowen special meeting, the board of directors of Cowen withdraws, or modifies or amends in an adverse manner, its approval or recommendation of the Cowen stock issuance; or

- LaBranche terminates the merger agreement because Cowen fails to call or hold the Cowen special meeting in accordance with the terms of the merger agreement.

In the case of first or second bullet above, the amount of the termination fee payable will be offset by any previous payment by Cowen of LaBranche's fees and expenses, as described below.

Cowen would be required to pay LaBranche's actual and reasonably documented out-of-pocket fees and expenses (up to $1,500,000) if the merger agreement is terminated by (i) either LaBranche or Cowen because the required vote of Cowen stockholders is not obtained or (ii) LaBranche because Cowen has breached any of its representations, warranties, covenants or agreements, such that the conditions to LaBranche's obligations to complete the merger would not be satisfied unless the breach is capable of being, and is, cured within thirty days of notice of the breach.

Except as discussed above, each party shall pay all fees and expenses incurred by it in connection with the merger and the other transactions contemplated by the merger agreement provided, however that LaBranche and Cowen will share equally all fees and expenses in relation to the printing, filing and distribution of this joint proxy statement/prospectus.

Each party will have the right to pursue damages and other relief for the other party's willful breach of any of its representations and warranties in the merger agreement or willful breach of any covenant in the merger agreement.

Amendments, Extensions and Waivers

The merger agreement may be amended by the parties at any time before or after the receipt of the approvals of the LaBranche or Cowen stockholders required to consummate the merger. However, after any such stockholder approval, there may not be, without further approval of Cowen stockholders or LaBranche stockholders, as applicable, any amendment of the merger agreement for which applicable law requires further stockholder approval.

At any time prior to the effective time of the merger, any party may (i) extend the time for performance of any obligations or other acts of the other party, (ii) waive any inaccuracies in the representations and warranties of the other party contained in the merger agreement and (iii) waive compliance by the other party with any of the agreements or conditions contained in the merger agreement.

No Third Party Beneficiaries

While the merger agreement is not intended to confer upon you or any person other than LaBranche, Cowen and Merger Sub any rights or remedies, it provides limited exceptions. LaBranche's directors and officers will continue to have indemnification and liability insurance coverage after the completion of the merger.

Specific Performance

LaBranche and Cowen agreed in the merger agreement that irreparable damage would occur in the event that any of the provisions of the merger agreement were not performed in accordance with their specific terms or were otherwise breached, and that no adequate remedy at law would exist for such occurrence. The parties agreed that they shall be entitled to seek an injunction or injunctions to prevent breaches of the merger agreement and to enforce specifically the performance of terms and provisions of the merger agreement without proof of actual damages. The parties further agreed not to assert that a remedy at law would be adequate.

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VOTING AGREEMENTS

LaBranche Voting Agreement

Concurrently with the execution of the merger agreement, George M.L. LaBranche, IV (Chairman, Chief Executive Officer and President of LaBranche), Alfred O. Hayward, Jr. (Executive Vice President of LaBranche) and William J. Burke, III (Chief Operating Officer of LaBranche) entered into a voting agreement with Cowen (which we refer to as the LaBranche voting agreement). Pursuant to the LaBranche voting agreement, each of these individuals agreed, among other things, to vote the shares of LaBranche common stock held by them:

- in favor of approval and adoption of the merger agreement and approval of the merger;
- against any action or agreement that has or would be reasonably likely to result in any conditions to LaBranche's obligations to effect the merger not being satisfied;
- against any other acquisitions proposal with respect to LaBranche;
- against any amendments to the organizational documents of LaBranche if such amendment would reasonably be expected to prevent or delay the closing of the merger; and
- against any action or agreement that is intended or would reasonably be expected to impede, interfere with, delay or postpone of the merger or change in any manner the voting rights of any class of capital stock of LaBranche.

The individuals who have entered into the LaBranche voting agreement beneficially owned in the aggregate 5,123,438 shares of LaBranche common stock as of February 16, 2011, which represented approximately 12.5% of the outstanding shares of LaBranche common stock as of such date. In addition, Messrs. LaBranche and Hayward have agreed to direct the parties to the LaBranche stockholders' agreement, to vote all of their shares in favor of approval and adoption of the merger agreement and approval of the merger. Collectively, at the close of business for the record date for the LaBranche special meeting, Messrs. LaBranche, Burke and Hayward and the other LaBranche stockholders party to the LaBranche stockholders' agreement held approximately % of the outstanding shares of LaBranche common stock. Additionally, the individuals who have entered into the LaBranche voting agreement agreed to grant an irrevocable proxy to Cowen to enforce the LaBranche Voting Agreement (which we refer to as the LaBranche Proxy). The LaBranche voting agreement and the LaBranche Proxy will automatically terminate upon the first to occur of (a) the effective time of the merger, (b) an adverse change by the board of directors of LaBranche of its recommendation of the merger, in accordance with the terms of the merger agreement, or (c) the termination of the merger agreement.

The foregoing discussion of the LaBranche voting agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the LaBranche voting agreement, which is attached as Exhibit 4.1 to the Form 8-K filed by Cowen on February 17, 2011 and is incorporated herein by reference.

RCG Holdings LLC Voting Agreement

In connection with the execution of the merger agreement, LaBranche entered into a voting agreement, dated as of February 16, 2011, by and between LaBranche and RCG Holdings (which we refer to as the RCG voting agreement). Pursuant to the terms of the RCG voting agreement, RCG Holdings agreed, among other things, to vote all of its shares of Cowen Class A common stock (representing approximately 44.5% of the outstanding shares of Cowen Class A common stock as of February 16, 2011):

- in favor of the Cowen stock issuance;

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- against any action or agreement that has or would be reasonably likely to result in any conditions to Cowen's obligations to effect the merger not being satisfied;

- against any acquisition proposal with respect to Cowen;

- against any amendments to the organizational documents of Cowen if such amendment would reasonably be expected to prevent or delay the closing of the merger; and

- against any action or agreement that is intended or would reasonably be expected to impede, interfere with, delay or postpone of the merger or change in any manner the voting rights of any class of capital stock of Cowen.

At the close of business for the record date of the Cowen special meeting, RCG held approximately % of the issued and outstanding Cowen Class A common stock.

Additionally, RCG Holdings LLC agreed to grant an irrevocable proxy to LaBranche to enforce the foregoing RCG voting agreement (which we refer to as the RCG Proxy). The RCG voting agreement and the RCG Proxy will automatically terminate upon the first to occur of (a) the effective time of the merger, (b) an adverse change by the board of directors of Cowen of its recommendation of the merger, in accordance with the terms of the merger agreement, or (c) the termination of the merger agreement.

The foregoing description of the transactions contemplated the RCG voting agreement is not, and does not purport to be, complete and is qualified in its entirety by reference to the RCG Voting Agreement, a copy of which is attached as Exhibit 10.1 to LaBranche's Form 8-K filed on February 18, 2011 and is incorporated herein by reference.

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MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES

The following discussion is a general summary of the material U.S. federal income tax consequences of the exchange of shares of LaBranche common stock for shares of Cowen Class A common stock in the merger and the second-step merger, taken together.

The following discussion does not address any aspects of U.S. taxation other than federal income taxation. This discussion does not address any non-income or other taxes or any foreign, state or local tax consequences of the merger and second-step merger.

WE URGE YOU TO CONSULT YOUR OWN TAX ADVISOR AS TO THE SPECIFIC TAX CONSEQUENCES TO YOU OF THE MERGER AND SECOND-STEP MERGER, INCLUDING THE APPLICABILITY AND EFFECT OF FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX LAWS IN LIGHT OF YOUR PARTICULAR CIRCUMSTANCES.

This discussion addresses only holders of LaBranche common stock who hold that stock as a capital asset and are "U.S. persons," as defined for U.S. federal income tax purposes. For these purposes a "U.S. person" is:

- an individual citizen or resident of the United States;
- a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust that (i) is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust or (ii) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

This discussion does not address all aspects of U.S. federal income taxation that may be relevant to a holder of common stock in light of that holder's particular circumstances or to a holder subject to special rules (such as a controlled foreign corporation, passive foreign investment company, company that accumulates earnings to avoid U.S. federal income tax, foreign tax-exempt organization, financial institution, broker or dealer in securities, insurance company, mutual fund, foreign holder, person subject to the alternative minimum tax, regulated investment company, real estate investment trust, person who holds LaBranche common stock as part of a hedging or conversion transaction or as part of a short-sale or straddle, or through a partnership or other pass-through entity for U.S. federal income tax purposes or a person who acquired LaBranche common stock pursuant to the exercise of an option or otherwise as compensation). This discussion is based on the Code, applicable Treasury regulations, administrative interpretations and court decisions, each as in effect as of the date of this joint proxy statement/prospectus and all of which are subject to change, possibly with retroactive effect.

If a partnership (or an entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds LaBranche common stock, the tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. Partners of partnerships holding LaBranche common stock should consult their own tax advisors.

The Merger

As noted, the merger will be immediately followed by the second-step merger. In this discussion of "Material U.S. Federal Income Tax Consequences," unless otherwise indicated the two mergers, taken together, are referred to as the "transaction."

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As a condition to the completion of the merger, each of Willkie Farr & Gallagher LLP, tax counsel to Cowen, and Weil, Gotshal & Manges LLP, tax counsel to LaBranche, will deliver an opinion, dated as of the closing date of the merger, that the merger and the second-step merger, taken together, will be treated for U.S. federal income tax purposes as a "reorganization" within the meaning of Section 368(a) of the Code and that each of LaBranche and Cowen will be a party to the reorganization within the meaning of Section 368(b) of the Code. Neither Cowen nor LaBranche intends to waive this condition.

The opinions regarding the transaction will be based on certain assumptions and representations as to factual matters from LaBranche and Cowen, as well as certain covenants and undertakings made by LaBranche and Cowen to each other. If any of the assumptions, representations, covenants or undertakings is incorrect, incomplete, inaccurate or is violated, the validity of the conclusions reached by counsel in their opinions could be jeopardized and the tax consequences of the transaction could differ materially from those described in this joint proxy statement/prospectus. Neither Cowen nor LaBranche is currently aware of any facts or circumstances that would cause the assumptions, representations, covenants and undertakings to be incorrect, incomplete, inaccurate or violated.

An opinion of counsel represents counsel's legal judgment but is not binding on the IRS or any court, so there can be no certainty that the IRS will not challenge the conclusions reflected in the opinions or that a court would not sustain such a challenge. Neither Cowen nor LaBranche intends to obtain a ruling from the IRS on the tax consequences of the transaction. If the IRS were to successfully challenge the "reorganization" status of the transaction, the tax consequences would be very different from those set forth in this joint proxy statement/prospectus.

Based on those opinions, in the event that the transaction is treated for U.S. federal income tax purposes as a "reorganization" within the meaning of Section 368(a) of the Code, the U.S. federal income tax consequences of the transaction are as follows:

Consequences to LaBranche, Cowen, Merger Sub and Merger Sub LLC

Each of LaBranche and Cowen will be a party to the reorganization within the meaning of Section 368(b) of the Code. None of LaBranche, Cowen, Merger Sub or Merger Sub LLC will recognize any gain or loss for U.S. federal income tax purposes as a result of the transaction.

Consequences to U.S. Holders

For U.S. holders of LaBranche common stock receiving Cowen Class A common stock in the transaction treated as a reorganization under Section 368(a) of the Code, the following will apply:

- a holder of LaBranche common stock will not recognize any gain or loss upon the exchange of the holder's shares of LaBranche common stock for shares of Cowen Class A common stock in the merger, except with respect to cash received in lieu of fractional shares of Cowen Class A common stock as described below;

- a holder of LaBranche common stock will have a tax basis in the Cowen Class A common stock received in the merger equal to the tax basis of the LaBranche common stock surrendered by the holder in exchange for that Cowen Class A common stock in the merger; and

- a holder of LaBranche common stock will have a holding period for shares of Cowen Class A common stock received in the merger (including shares deemed received and redeemed as described below) that includes its holding period for its shares of LaBranche common stock surrendered by the holder in exchange for that Cowen Class A common stock in the merger.

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Cash in Lieu of Fractional Shares

No fractional shares of Cowen Class A common stock will be distributed to holders of LaBranche common stock in connection with the merger. A holder that receives cash in lieu of a fractional share of Cowen Class A common stock as a part of the merger will be treated as if the holder received a fractional share of Cowen Class A common stock in the merger, and then Cowen redeemed the fractional share in exchange for the cash the holder received in lieu of a fractional share, and accordingly, will generally recognize capital gain or loss. An individual U.S. holder will generally be subject to U.S. federal income tax at a reduced rate with respect to such capital gain, assuming that the U.S. holder has held all of its LaBranche common stock for more than one year at the effective time of the merger.

Backup Withholding

Backup withholding, currently at a rate of 28%, may apply with respect to certain payments, such as cash received for fractional shares, unless the holder of the LaBranche common stock receiving such a payment (i) is an exempt holder (generally, a corporation, tax-exempt organization, qualified pension or profit-sharing trust, individual retirement account, or nonresident alien individual who or which, when required, certifies as to his, her or its status) or (ii) provides a certificate containing the holder's name, address, correct federal taxpayer identification number and a statement that the holder is a U.S. person and is not subject to backup withholding. Backup withholding does not constitute an additional tax, but is merely an advance payment that may be credited against a holder's U.S. federal income tax liability if the required information is timely supplied to the IRS.

Reporting Requirements

Each holder of LaBranche common stock who receives shares of Cowen Class A common stock in the merger is required to retain records pertaining to the transaction pursuant to Treasury Regulation Section 1.368-3(d). Each holder of LaBranche common stock who receives shares of Cowen Class A common stock in the merger and who owns immediately before the merger 5% or more, by vote or value, of LaBranche stock will be required to file a statement with his or her federal income tax return for the year of the merger. As provided in Treasury Regulations Section 1.368-3(b), the statement must set forth the holder's basis in, and the fair market value of, the shares of LaBranche common stock surrendered in the merger, the date of the transaction and the name and employer identification number of LaBranche and Cowen.

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ACCOUNTING TREATMENT

Cowen prepares its financial statements in accordance with GAAP. The merger will be accounted for using the acquisition method of accounting. Cowen will allocate the purchase price to the fair value of LaBranche's tangible and intangible assets and liabilities at the acquisition date, with the excess/shortfall purchase price being recorded as goodwill/gain on bargain purchase. Under the acquisition method of accounting, goodwill is not amortized but is tested for impairment at least annually.

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UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

The unaudited pro forma condensed combined statement of financial condition as of December 31, 2010 gives effect to the merger as if it had been completed on December 31, 2010 and includes all adjustments which give effect to the events that are directly attributable to the merger and that are factually supportable. The unaudited pro forma condensed combined statement of operations for the fiscal year ended December 31, 2010, gives effect to the merger as if it was completed on January 1, 2010, and includes all adjustments which give effect to the events that are directly attributable to the merger, as long as the impact of such events are expected to continue and are factually supportable. The unaudited pro forma condensed combined financial data shown under this heading and the accompanying notes should be read together with:

- the accompanying notes to the unaudited pro forma condensed combined financial statements;
- the separate audited historical financial statements of Cowen as of and for the fiscal year ended December 31, 2010 contained in its Annual Report on Form 10-K for the year ended December 31, 2010, which are incorporated by reference into this document.
- the separate audited historical financial statements of LaBranche as of and for the fiscal year ended December 31, 2010 contained in its Annual Report on Form 10-K for the year ended December 31, 2010, which are incorporated by reference into this document.

The merger will be treated under the acquisition method for accounting purposes. In this case, the merger will be accounted for as an acquisition by Cowen of LaBranche. As such, LaBranche's assets acquired and liabilities assumed will be recorded at their fair value. The fair value of Cowen shares issued to LaBranche stockholders is the purchase consideration in the merger. The purchase consideration for LaBranche under the acquisition method is based on the stock price of Cowen on the closing date of the merger multiplied by the number of shares issued by Cowen to the LaBranche stockholders. The preliminary allocation of the purchase price is based on the most recent trading closing price of Cowen stock $4.13 per share of Cowen Class A common stock (based on the closing stock price on March 29, 2011) and 40,850,133 shares of Cowen stock expected to be issued upon closing of the merger. Because the number of common shares of LaBranche issued and outstanding on the date of merger may differ from the number used in these pro forma condensed combined financial statements, the number of Cowen stock to be issued to LaBranche stockholders may also change.

The unaudited pro forma condensed combined financial statements are presented for informational purposes only. The unaudited pro forma information is not necessarily indicative of what the combined company's financial position or results of operations actually would have been had the merger been completed as of the dates indicated. In addition, the unaudited pro forma condensed combined financial information does not purport to project the future financial position or operating results of the combined company.

The unaudited pro forma condensed combined financial statements have been prepared using the acquisition method of accounting under GAAP which is subject to change and interpretation. Cowen has been treated as the acquirer in the merger for accounting purposes. The acquisition accounting is dependent on the final determination of the purchase price, which will be based on the Cowen stock price at the closing of the merger, and certain valuations and other studies that have yet to commence or progress to a stage where there is sufficient information for definitive measurement. Accordingly, the pro forma adjustments are preliminary and have been made solely for the purpose of providing unaudited pro forma condensed combined financial information. Differences between these preliminary estimates, including the estimates of the purchase consideration and allocation of purchase price to LaBranche's indentifiable assets and liabilities, including intangible assets, and the final acquisition accounting will occur and these differences could have a material impact on the accompanying unaudited pro forma condensed combined financial statements and the combined company's future results of operations and financial position.

The unaudited pro forma condensed combined financial information does not reflect any cost savings, operating synergies or revenue enhancements that Cowen may achieve as a result of the merger, the costs to integrate the operations of Cowen and LaBranche or the costs necessary to achieve these cost savings, operating synergies and revenue enhancements.

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Unaudited Pro Forma Condensed Combined Statement of Financial Condition

At December 31, 2010

	Historical		Pro Forma	Combined
	Cowen	LaBranche	Adjustments	Company
	(in thousands)			
Assets				
Cash and cash equivalents	$ 36,354	$ 85,956	$	$ 122,310
Segregated cash	8,633	1,727		10,360
Securities owned, at fair value	474,095	1,013,914		1,488,009
Securities purchased under agreements to resell	97,755			97,755
Other investments	40,320			40,320
Receivable from brokers, dealers and clearing organizations	95,937	169,717		265,654
Fees receivable	31,688			31,688
Due from related parties	16,370			16,370
Fixed assets, net	36,591	9,983		46,574
Goodwill	27,179			27,179
Intangible assets, net	12,754		4,350(a)	17,104
Other assets	19,456	11,466		30,922
Consolidated Funds:				
Cash and cash equivalents	7,210			7,210
Securities owned, at fair value	8,722			8,722
Other investments, at fair value	333,374			333,374
Other assets	732			732
Total assets	**1,247,170**	**1,292,763**	**4,350**	**2,544,283**
Liabilities, and Stockholders' Equity				
Securities sold, not yet purchased, at fair value	197,916	817,782		1,015,698
Securities sold under agreements to repurchase	192,165			192,165
Payable to brokers, dealers and clearing brokers	85,655	254,419		340,074
Fees payable	8,797			8,797
Due to related parties	9,187			9,187
Accrued compensation	76,204	5,083		81,287
Accounts payable, accrued expenses and other liabilities	42,267	7,615	8,357(b)	58,239
Short-term borrowings and other debt	31,733			31,733
Consolidated Funds:				
Capital withdrawals payable	7,817			7,817
Accounts payable, accrued expenses and other liabilities	1,827			1,827
Total liabilities	**653,568**	**1,084,899**	**8,357**	**1,746,824**
Redeemable noncontrolling interests	144,346			144,346
Stockholders' equity				
Total stockholders' equity	449,256	207,864	(4,007)(c)	653,113
Total liabilities and Stockholders' equity	**$ 1,247,170**	**$ 1,292,763**	**$ 4,350**	**$ 2,544,283**

See accompanying notes to unaudited pro forma condensed combined financial statements.
Please refer to Note 3 for pro forma adjustments.

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Unaudited Pro Forma Condensed Combined Statement of Operations

Twelve Months Ended December 31, 2010

	Historical		Pro Forma	Combined
	Cowen	LaBranche	Adjustments	Company
	(in thousands, except per share data)			
Revenues				
Management fees	$ 38,847	$	$	$ 38,847
Interest and dividends	11,547	1,970	(1)(d)	13,516
Reimbursement from affiliates	6,816			6,816
Investment banking	38,965			38,965
Brokerage	112,217	12,101	(12,101)(d)	112,217
Other	1,936	950	(752)(d)	2,134
Consolidated Funds	12,119			12,119
Total revenues	**233,810**	**15,021**	**(12,854)**	**235,977**
Operating expenses				
Employee compensation and benefits	194,919	27,117	(9,342)(d)	212,694
Interest and dividends	8,971	16,341		25,312
Professional, advisory and other fees	14,547	3,964		18,511
Communications	13,972	9,165	(2,788)(d)	20,349
Occupancy and equipment	18,119	3,614	(769)(e)	20,964
Floor brokerage and trade execution	17,143	14,789	(2,458)(d)	29,474
Service fees	15,814			15,814
Depreciation and amortization	11,543	1,925	775(d),(f)	14,243
Client services, marketing and business development	14,470			14,470
Other	22,323	13,222	(4,022)(d)	31,523
Consolidated Funds	8,121			8,121
Total expenses	**339,942**	**90,137**	**(18,604)**	**411,475**
Other income (loss)				
Net gains on securities, derivatives and other investments	21,980	29,769	251(d)	52,000
Consolidated Ramius Funds net realized and unrealized losses	31,062			31,062
Total other income (loss)	**53,042**	**29,769**	**251**	**83,062**
Income(loss) before taxes	**(53,090)**	**(45,347)**	**6,001**	**(92,436)**
Income tax (benefit) expense	(21,400)	20,677	(d)	(723)
Net income(loss)	**(31,690)**	**(66,024)**	**6,001**	**(91,713)**
Income (loss) attributable to redeemable noncontrolling interests in consolidating subsidiaries	13,727			13,727
Net income(loss) attributable to stockholders	**$ (45,417)**	**$ (66,024)**	**$ 6,001**	**$ (105,440)**
Pro forma Net Income (Loss) Per Share				
Basic	$ (0.62)	$ (1.52)		$ (0.92)(h)
Diluted	$ (0.62)	$ (1.52)		$ (0.92)(h)
Pro forma Weighted Average Common Shares				
Basic	73,149	43,541	(2,691)(g)	113,999(i)
Diluted	73,149	43,541	(2,691)(g)	113,999(i)

See accompanying notes to unaudited pro forma condensed combined financial statements.
Please refer to Note 3 for pro forma adjustments.

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Notes to Unaudited Pro Forma Condensed Combined Financial Statements

Note 1 Basis of Presentation

The unaudited pro forma condensed combined financial statements give effect to the business combination of Cowen and LaBranche in a merger accounted for using the acquisition method of accounting, with Cowen treated as the accounting acquirer, as if the acquisition of LaBranche had been completed on January 1, 2010, for purposes of the statement of operations, and on December 31, 2010, for purposes of the statement of financial condition.

The unaudited pro forma condensed combined financial data is presented for illustrative purposes only and is not necessarily indicative of the operating results or financial position that would have occurred if the merger had been completed during the period or as of the dates for which the unaudited pro forma data is presented, nor is it necessarily indicative of the future operating results or financial position of Cowen.

Cowen's estimated purchase price for LaBranche has been allocated to the assets acquired and the liabilities assumed based upon management's preliminary estimate of their respective fair values as of the date of acquisition. The purchase price allocation unaudited pro forma adjustments are preliminary, have been made solely for the purpose of providing unaudited pro forma condensed combined financial data and are subject to revision upon the closing of the merger and finalization of the acquisition accounting.

The accompanying unaudited pro forma condensed combined statement of operations does not include the impact of the following non-recurring items directly related to the merger:

- transaction costs in connection with the acquisition yet to be incurred which will continue to be expensed as incurred;

- a non-cash bargain purchase gain created from the merger, if any.

Certain reclassifications have been made to the LaBranche historical balances in the unaudited pro forma condensed combined financial statements to conform to Cowen's presentation.

LaBranche entered into change in control agreements with certain employees which require LaBranche to make payments and provide benefits to these employees in connection with a change in control of LaBranche and a subsequent qualifying termination, with a total estimated amount of $1.1 million. The completion of the merger will constitute a change in control for purposes of these change in control agreements. The agreements will end upon the expiration of a 12-month period following the occurrence of a change in control. However, these employees continue to be employed by LaBranche. As a result, no adjustment has been recorded in the unaudited pro forma condensed combined financial statements. See section titled "Interest of LaBranche Directors and Executive Officers in the Merger Change in Control Agreements" beginning on page 74 for further details on the terms of these agreements.

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Notes to Unaudited Pro Forma Condensed Combined Financial Statements (Continued)

Note 2 Purchase Price

For the purpose of preparing the accompanying unaudited pro forma condensed combined statement of financial condition as of December 31, 2010, management made the following assumptions:

LaBranche stockholders will exchange each one their issued and outstanding 40,931,997 shares of LaBranche common stock for the equivalent of 0.9980 of Cowen Class A common stock (equaling 40,850,133 Cowen Class A common stock);

the estimated fair value of Cowen securities to be issued to LaBranche stockholders was determined based on the most current trading closing price of Cowen's Class A common stock on March 29, 2011, and the number of shares estimated to be delivered at closing.

The estimated fair value of Cowen Class A common stock issued to LaBranche stockholders in the merger represents the purchase consideration in the merger, which was computed as follows:

		(in thousands, except per share data)
Number of Cowen Class A common shares to be issued at closing:		
Common float		40,850(1)
Total shares issued to LaBranche stockholders		40,850
Estimated market price of LaBranche common shares	$	4.13(2)
Estimated purchase price	$	168,711

(1) Based on LaBranche common stock issued and outstanding on February 16, 2011 of 40,931,997 multiplied by the exchange ratio of 0.9980. Even though the number of LaBranche common stock outstanding may change prior to the closing of the merger, the exchange ratio is fixed and will not be adjusted to reflect stock price changes prior to the closing of the merger.

(2) The $4.13 share price used in calculating the estimated purchase consideration represents the closing share price of Cowen common stock on March 29, 2011. The actual purchase consideration will be based on the actual closing price per share of Cowen Class A common stock on the date of the merger and the number of LaBranche common shares outstanding on the date of merger. Assuming the number of LaBranche common shares remain unchanged, an increase or decrease of $1.00 in the price per share of Cowen Class A common stock would increase or decrease, as applicable, the purchase consideration by approximately $40.9 million.

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Notes to Unaudited Pro Forma Condensed Combined Financial Statements (Continued)

Note 2 Purchase Price (Continued)

The following is a summary of the preliminary allocation of the purchase price as reflected in the unaudited pro forma condensed combined statement of financial condition as of December 31, 2010:

	(in thousands)
Cash and cash equivalents	$ 85,956
Segregated cash	1,727
Securities owned, at fair value	1,013,914
Receivable from brokers, dealers and clearing brokers	169,717
Fixed assets, net	9,983
Intangible assets	4,350
Other assets	11,466
Securities sold, not yet purchased	(817,782)
Payable to brokers, dealers and clearing brokers	(254,419)
Accrued compensation	(5,083)
Accounts payable, accrued expenses and other liabilities	(13,472)
Total net assets acquired	206,357
Goodwill/(Bargain purchase gain) on transactions	(37,646)(1)
Total purchase price	$ 168,711

(1) Represents the estimated bargain purchase gain on the merger.

Cowen believes that all of the acquired receivables and contractual amounts receivable as reflected above in the preliminary allocation of the purchase price are recorded at fair value and are expected to be collected in full.

Based on the December 31, 2010 estimated purchase price allocation, the fair value of the net identifiable assets acquired and liabilities assumed of $206.4 million exceeded the fair value of the estimated purchase price of $168.7 million. As a result, Cowen would have recognized a bargain purchase gain of $37.6 million if the merger had closed on that date. Cowen's share price has traded below its book value for a substantial part of the last 52 weeks, and as the estimated purchase consideration is determined based on the stock price of Cowen on March 29, 2011, the preliminary purchase price allocation reflected in these unaudited pro forma condensed combined financial statements has resulted in a bargain purchase gain.

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Notes to Unaudited Pro Forma Condensed Combined Financial Statements (Continued)

Note 3 Pro Forma Adjustments

(a)

As of December 31, 2010, the estimated fair value of LaBranche's intangible assets (other than goodwill) is $4.4 million. The preliminary allocations included in the unaudited pro forma condensed combined financial data are as follows:

	Estimated Intangible Assets Acquired (in thousands)	Estimated average remaining useful lives (years)
Intangible asset class		
Trade name and trademarks	$ 500	3
Covenants	1,600	10
Intellectual property	2,250	5
Total intangible assets	$ 4,350	

(b)

Reflects adjustments to accounts payable, accrued expenses and other liabilities as follows:

	(in thousands)
Unfavorable lease liability	$ 4,357(1)
Estimated transaction costs	4,000(2)
Total	$ 8,357

(1)

Represents an estimated net impact of an unfavorable lease liability of $4.4 million related to certain of LaBranche's real estate leases that were at higher than market rates at the closing date.

(2)

Represents Cowen's and LaBranche's estimated total transaction costs related to professional and investment banking services of $2.5 million and $1.5 million, respectively.

(c)

Reflects the adjustments to total stockholders' equity as follows:

	(in thousands)
Estimated purchase consideration paid for LaBranche	$ 168,711(1)
Historical stockholders' equity of LaBranche	(207,864)(2)
Cowen transaction costs	(2,500)(3)
Estimated (goodwill)/bargain purchase gain ("negative goodwill") on transactions	37,646(4)
Total	$ (4,007)

(1)
Represents the estimated purchase consideration paid to LaBranche stockholders in the merger.

(2)
Represents the elimination of the historical equity of LaBranche.

(3)
Represents estimated transaction costs to be expensed as incurred by Cowen prior to the merger.

(4)
Represents the estimated bargain purchase gain ("negative goodwill") under the acquisition method, will be recognized as a day-one gain of the combined company.

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Notes to Unaudited Pro Forma Condensed Combined Financial Statements (Continued)

Note 3 Pro Forma Adjustments (Continued)

(d)

Reflects the elimination of amounts associated with LaBranche's institutional brokerage business. In January 2011, LaBranche announced that it committed to a plan to wind down the activities of its institutional brokerage business. LaBranche has undertaken a process to terminate its institutional execution group sales trading business and its professional trading group in the first quarter of 2011. As this business is expected to be terminated prior to the merger, the following revenue and operating expense items are removed from the pro forma combined statement of operations:

	(in thousands)
Revenues	
Interest and dividends	$ 1
Brokerage	12,101
Other	752
Total revenues	12,854
Operating expenses	
Employee compensation and benefits	9,342
Communications	2,788
Floor brokerage and trade execution	2,458
Depreciation and amortization	2
Other	4,022
Total expenses	18,612
Other income (loss)	
Net (loss) on securities, derivatives and other investments	(251)
Income(loss) before taxes	(6,009)
Income tax (benefit) provision	
Net income(loss)	$ (6,009)

(e)

Reflects amortization of the unfavorable lease obligation described in (b) above over the remaining lease terms.

(f)

Reflects amortization expense related to the estimated intangible assets recognized in connection with the merger described in (a) above.

(g)

Reflects the adjustment necessary to arrive at the shares outstanding assuming the merger closed at the beginning of the periods presented. Primarily represents 0.0020 (one minus the exchange ratio) multiplied by the amount of LaBranche shares assumed to be outstanding at time of merger. See (i) below for further explanation.

(h)

Reflects the unaudited pro forma net loss for the combined company divided by the unaudited pro forma weighted average shares outstanding for the combined company.

(i)

Reflects the sum of the Cowen weighted average common shares (i) outstanding prior to the merger and (ii) to be issued to LaBranche shareholders in connection with the merger. As the unaudited pro forma combined statements of operations assume that the merger occurred as of the beginning of the period presented, all 40,850,133 shares of Cowen Class A common stock that are estimated to be issued to LaBranche shareholders are assumed to be outstanding for the entire period for the unaudited pro forma net loss per share calculation of the combined company. No adjustments have been made for the dilutive effects as the effects of outstanding restricted

stock and stock options would be anti-dilutive.

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COMPARATIVE STOCK PRICE DATA AND DIVIDENDS

Stock Prices

Cowen Class A common stock is listed on the NASDAQ Global Select Market under the trading symbol "COWN." LaBranche common stock is listed on New York Stock Exchange under the trading symbol "LAB." The following table sets forth the closing sales prices per shares of Cowen Class A common stock and LaBranche common stock, on an actual and equivalent per share basis, on the NASDAQ Global Select Market and New York Stock Exchange, respectively, on the following dates:

February 16, 2011, the last full trading day prior to the public announcement of the merger, and

, 2011, the last trading day for which this information could be calculated prior to the filing of this joint proxy statement/prospectus.

	Cowen Class A Common Stock	LaBranche Common Stock	LaBranche Equivalent Per Share(1)
February 16, 2011	$ 4.72	$ 4.06	$ 4.71
, 2011	$	$	$

(1) The equivalent per share data for LaBranche common stock has been determined by multiplying the market price of one share of Cowen common stock on each of the dates by the exchange ratio of 0.9980.

The following table sets forth, for the periods indicated, the high and low sales prices of per share of Cowen Class A common stock and LaBranche common stock as reported on the NASDAQ Global Select Market and New York Stock Exchange, respectively.

	Cowen(1)		LaBranche	
Calendar Period	High	Low	High	Low
Year ended December 31, 2008				
First Quarter	$ 10.83	$ 6.29	$ 6.21	$ 3.70
Second Quarter	$ 8.55	$ 6.34	$ 8.12	$ 4.25
Third Quarter	$ 10.50	$ 5.87	$ 7.95	$ 3.23
Fourth Quarter	$ 8.93	$ 4.60	$ 6.70	$ 2.86
Year ended December 31, 2009				
First Quarter	$ 6.95	$ 3.54	$ 7.62	$ 3.41
Second Quarter	$ 8.75	$ 4.34	$ 4.75	$ 3.12
Third Quarter	$ 8.81	$ 6.19	$ 4.54	$ 3.34
Fourth Quarter	$ 9.00	$ 4.94	$ 3.47	$ 2.38
Year ending December 31, 2010				
First Quarter	$ 6.02	$ 4.84	$ 5.73	$ 2.68
Second Quarter	$ 6.02	$ 3.87	$ 6.10	$ 3.93
Third Quarter	$ 4.51	$ 2.99	$ 4.47	$ 3.54
Fourth Quarter	$ 5.04	$ 3.25	$ 4.09	$ 3.02

(1) Includes performance data for Cowen's common stock for the time period prior to the closing of Cowen's business combination with Ramius on November 2, 2009.

The following table sets forth certain historical per share financial information for Cowen's and LaBranche's common stock, and certain pro forma per share data for Cowen Class A common stock.

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The unaudited pro forma data was derived by combining the historical consolidated financial information of LaBranche and Cowen using the acquisition method of accounting and applying the assumptions and adjustments described in the accompanying notes to the unaudited pro forma condensed combined financial statements. The Comparative Per Share Data for the year ended December 31, 2010 combine the historical consolidated financial information of LaBranche and Cowen giving effect to the transactions as if the transactions had become effective on January 1, 2010. The information below should be read in conjunction with the historical financial statements and related notes contained in the annual reports and other information that LaBranche and Cowen have filed with the SEC and incorporated by reference in this document and with the unaudited pro forma condensed combined financial statements and related notes included in this document. See the sections titled "Where You Can Find More Information" beginning on page 140 and "Unaudited Pro Forma Condensed Combined Financial Statements" beginning on page 113.

The unaudited pro forma information, while helpful in illustrating the financial characteristics of the combined company under one set of assumptions, does not reflect the impact of possible business model changes as a result of current market conditions which may impact revenues, cost savings, asset dispositions and other factors. It also does not necessarily reflect what the historical results of Cowen would have been had Cowen and LaBranche been combined during these periods, nor is it indicative of the results of operations in future periods or the future financial position of Cowen following the merger. The pro forma adjustments are based upon available information and certain assumptions that LaBranche and Cowen management believe are reasonable. In addition, as explained in more detail in the accompanying notes to the unaudited pro forma condensed combined financial information, the preliminary allocation of the pro forma purchase price reflected in the unaudited pro forma condensed combined financial information is subject to adjustment and may vary significantly from the actual purchase price allocation that will be recorded upon completion of the transactions.

	LaBranche Historical Year Ended December 31, 2010	Cowen Historical Year Ended December 31, 2010	Cowen Pro Forma Year Ended December 31, 2010	LaBranche Equivalent Pro Forma(1) Year Ended December 31, 2010
		(in thousands, except per share data)		
Basic and diluted net income (loss) per common share				
Numerator:				
Net income (loss) attributable to stockholders	$ (66,024)	$ (45,417)	$ (105,440)	$ (66,024)
Denominator:				
Weighted average shares outstanding for Basic and Diluted EPS	43,541	73,149	113,999	43,454
Net income (loss) per common share:				
Basic and Diluted	$ (1.52)	$ (0.62)	$ (0.92)	$ (1.52)
Book value per common share	$ 4.77	$ 6.14	$ 5.73	$ 4.78

(1) Represents LaBranche Historical as adjusted by the 0.9980 exchange ratio.

Dividends

Neither Cowen nor LaBranche paid any dividends in 2008, 2009 or 2010 and neither has any current intention of doing so.

DIRECTORS AND OFFICERS OF COWEN FOLLOWING THE MERGER

The following persons will serve as directors and executive officers of Cowen at the effective time of the merger, all of whom are current executive officers and/or directors of Cowen, with the exception of George M.L. LaBranche, IV and Katherine Elizabeth Dietze, who will join the Cowen board of directors as of the closing of the merger.

Name	Age (as of March 31, 2011)	Position with Cowen
Peter A. Cohen	64	Chairman of the Board, Chief Executive Officer
Thomas W. Strauss	68	Chief Executive Officer and President of Ramius Alternative Investments
Stephen A. Lasota	48	Chief Financial Officer
Jeffrey M. Solomon	44	Chief Operating Officer and Head of Investment Banking
Owen S. Littman	38	General Counsel and Secretary
Steven Kotler	64	Director
Jerome S. Markowitz	71	Director
Jack H. Nusbaum	70	Director
Edoardo Spezzotti	57	Director
John E. Toffolon, Jr.	60	Director
Joseph R. Wright	71	Director
George M.L. LaBranche, IV	55	Director
Katherine Elizabeth Dietze	53	Director

PETER A. COHEN. Age 64. Mr. Cohen serves as Chairman of Cowen's board of directors and Chief Executive Officer of Cowen Group and serves as a member of the Executive and Operating Committees of Cowen Group. Mr. Cohen is a founding principal of RCG. From November 1992 to May 1994, Mr. Cohen was Vice Chairman and a director of Republic New York Corporation, as well as a member of its executive management committee. Mr. Cohen was also Chairman of Republic's subsidiary, Republic New York Securities Corporation. Mr. Cohen was Chairman of the Board and Chief Executive Officer of Shearson Lehman Brothers from 1983 to 1990. Over his career, Mr. Cohen has served on a number of corporate, industry and philanthropic boards, including the New York Stock Exchange, The Federal Reserve International Capital Markets Advisory Committee, The Depository Trust Company, The American Express Company, Olivetti SpA, Telecom Italia SpA, Kroll, Inc. and L-3 Communications. He is presently a Trustee of Mount Sinai Medical Center, Vice Chairman of the Board of Directors of Scientific Games Corporation and a Director of Safe Auto Insurance.

THOMAS W. STRAUSS. Age 68. Mr. Strauss serves as Chief Executive Officer and President of Ramius Alternative Investments since February 8, 2010 and serves as a member of the Executive and Operating Committees of Cowen Group. Mr. Strauss previously served as Chief Executive Officer and President of Ramius Alternative Solutions. Mr. Strauss is a founding principal of RCG. From 1963 to 1991, Mr. Strauss was with Salomon Brothers Inc. where he was admitted as a General Partner in 1972 and was appointed to the Executive Committee in 1981. In 1986, he became President of Salomon Brothers and a Vice Chairman and member of the Board of Directors of Salomon Inc., the holding company of Salomon Brothers and Phibro Energy, Inc. In 1993, Mr. Strauss became Co-Chairman of Granite Capital International Group. Mr. Strauss is a former member of the Board of Governors of the American Stock Exchange, the Chicago Mercantile Exchange, the Public Securities Association, the Securities Industry Association, the Federal Reserve International Capital Markets Advisory Committee and the U.S. Japan Business-Council. He is a past President of the Association of Primary Dealers in

U.S. Government Securities. Mr. Strauss currently serves on the Board of Trustees of the U.S.-Japan Foundation and is a member of the Board of Trustees and Executive Committee of Mount Sinai Medical Center and Mount Sinai-NYU Health System.

STEPHEN A. LASOTA. Age 48. Mr. Lasota serves as Chief Financial Officer of Cowen Group and serves as a member of the Operating Committee of Cowen Group. Mr. Lasota was appointed Chief Financial Officer in November 2009. Prior to the consummation of the business combination of Cowen Group and Ramius in November 2009, Mr. Lasota was the Chief Financial Officer of Ramius LLC and a Managing Director of the Company. Mr. Lasota began working at RCG in November 2004 as the Director of Tax and was appointed Chief Financial Officer in May 2007. Prior to joining RCG, Mr. Lasota was a Senior Manager at PricewaterhouseCoopers LLP. Mr. Lasota has been working in the accounting industry for over twenty years and is a Certified Public Accountant.

JEFFREY M. SOLOMON. Age 44. Mr. Solomon serves as Chief Operating Officer, Head of Investment Banking and serves as a member of the Executive and Operating Committees of Cowen Group. Mr. Solomon is a founding principal of RCG. From 1991 to 1994, Mr. Solomon was at Republic New York Securities Corporation, the brokerage affiliate of Republic National Bank (now part of the HSBC Group), where he served as Chief Administrative Officer, Head of Corporate Development and Strategic Planning. Prior to joining Republic, Mr. Solomon was in the Mergers and Acquisitions Group at Shearson Lehman Brothers. Currently, Mr. Solomon serves on the Boards of Directors of Hale & Hearty Soups, NuGo Nutrition and Tollgrade Communications, Inc. Mr. Solomon also serves on the Technical Advisory Group of the Committee on Capital Markets Regulation.

OWEN S. LITTMAN. Age 38. Mr. Littman serves as General Counsel and Secretary of Cowen Group and serves as a member of the Operating Committee of Cowen Group. Mr. Littman was appointed General Counsel and Secretary in July 2010. Following the consummation of the business combination of Cowen Group and Ramius in November 2009, Mr. Littman was appointed Deputy General Counsel and Assistant Secretary of Cowen Group and General Counsel and Secretary of Ramius LLC. Mr. Littman began working at RCG in October 2005 as its senior transactional attorney and was appointed General Counsel in February 2009. Prior to joining RCG, Mr. Littman was an associate in the Business and Finance Department of Morgan, Lewis & Bockius LLP.

STEVEN KOTLER. Age 64. Mr. Kotler currently serves as Vice Chairman of the private equity firm Gilbert Global Equity Partners, which he joined in 2000. Prior to joining Gilbert Global, Mr. Kotler, for 25 years, was with the investment banking firm of Schroder & Co. and its predecessor firm, Wertheim & Co., where he served in various executive capacities including President & Chief Executive Officer, and Group Managing Director and Global Head of Investment and Merchant Banking. Mr. Kotler is a Director of CPM Holdings, an international agricultural process equipment company; a Capital Partner of The Archstone Partnerships; and, Vice Chairman of Stone Tower Capital. Mr. Kotler is a member of the Council on Foreign Relations; and, from 1999-2002, was Council President of The Woodrow Wilson International Center for Scholars. Mr. Kotler has previously served as a Governor of the American Stock Exchange, The New York City Partnership and Chamber of Commerce's Infrastructure and Housing Task Force, The Board of Trustees of Columbia Preparatory School; and, the Board of Overseers of the California Institute of the Arts. Mr. Kotler also previously served as a Director of Cowen Holdings from September 2006 until June 2007.

JEROME S. MARKOWITZ. Age 71. Mr. Markowitz has been a Senior Partner at Conifer Securities LLC, a boutique servicing the operational needs of investment managers, since 2006. From 1998 to 2006, Mr. Markowitz was actively involved in managing a private investment portfolio. Prior to 1998, Mr. Markowitz was Managing Director and a member of the executive committee at Montgomery Securities and was responsible for starting their private client, high yield, equity derivatives and prime

brokerage divisions. Prior to joining Montgomery, Mr. Markowitz was a Managing Director of L.F. Rothschild's Institutional Equity Department. Mr. Markowitz is a director and serves on the investment committee of Market Axess Inc., and also formerly served on the advisory board of Thomas Weisel Partners Group, Inc.

JACK H. NUSBAUM. Age 70. Mr. Nusbaum is a Senior Partner of the New York law firm of Willkie Farr & Gallagher LLP and a member of the Executive Committee. Mr. Nusbaum served as the firm's Chairman from 1987 through 2009 and has been a partner in that firm for more than thirty years. Willkie Farr & Gallagher LLP is outside counsel to Cowen Group. Mr. Nusbaum is also a director of W. R. Berkley Corporation.

EDOARDO SPEZZOTTI. Age 57. Mr. Spezzotti has been with the Unicredit Group since 2006 and is an Executive Vice President. Mr. Spezzotti is the Vice Chairman of Corporate and Investment Banking (CIB), a position he has held since January 1, 2010, is a member of the CIB Executive Committee, responsible for CIB for the Americas and Asia. He held the position of Global Head of Markets & Investment Banking Division until its merger with the Corporate Banking Division in March 2009 and from April to December 2009 he was responsible for the integration of the two divisions. Prior to joining the UniCredit Group, Mr. Spezzotti was a managing partner at Esfin LLP, a corporate finance firm founded in 2004. During his extensive career in finance, Mr. Spezzotti has worked at Merrill Lynch and at Goldman Sachs in various senior positions for Italy and for the EMEA region in the Investment Banking, Private Banking and Asset Management areas and has advised clients on numerous benchmark mergers, acquisitions and capital markets transactions. Mr. Spezzotti is BA Alpine Holdings, Inc.'s appointee to Cowen's board of directors.

JOHN E. TOFFOLON, JR. Age 60. Mr. Toffolon served as non-Executive Chairman of Cowen Holdings from July 2008 through the closing of the business combination of Cowen Group and Ramius in November 2009. Mr. Toffolon previously served as Cowen Holding's Lead Independent Director from June 2007 until his appointment as Chairman, and has been a member of Cowen Holding's Board of Directors and has served as the Chairman of Cowen Holding's Audit Committee since September 2006. Since May 2009, Mr. Toffolon has served as a member of the Board of Directors and as the Chairman of the audit committee of Westway Group, Inc., a leading global provider of bulk liquid storage services. Previously, Mr. Toffolon, in his capacity as a partner of The Shermen Group, served as the Chief Financial Officer and a member of the Board of Directors of Shermen WSC Acquisition Corp. since August 2006 until the business combination with Westway in May 2009. From 2001 to 2003, Mr. Toffolon served as an advisor to the Chairman and Chief Executive Officer of Royster-Clark, Inc., a privately-held chemicals distribution company. From 1992 to 2000, Mr. Toffolon served in various capacities, including Executive Managing Director, Chief Financial Officer and Chief Administrative Officer for Nomura Holding America, Inc. and Nomura Securities International, Inc. Mr. Toffolon also served as a member of the Boards of Directors of both Nomura companies. From 1979 to 1990, Mr. Toffolon worked at The First Boston Corporation as a Managing Director in various capacities, including Chief Financial Officer and served on the Management and Capital Commitment Committees.

JOSEPH R. WRIGHT. Age 71. Mr. Wright serves as a senior advisor to The Chart Group. Mr. Wright previously served as Chief Executive Officer of Scientific Games Corporation, a supplier of technology-based products, systems and services to gaming markets worldwide, from January 1 2009 through December 31, 2009 and has served as Vice Chairman of Scientific Games Corporation's Board of Directors since May 1, 2008, of which he has been a member since 2004. From July 2006 through April 2008, he served as Chairman of Intelsat, Ltd., the world's largest provider of satellite services, and as Chief Executive Officer of PanAmSat Corporation from August 2001 until it was combined with Intelsat in July 2006. Mr. Wright was the Chairman of GRC International, Inc. from 1996 to March

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2000 and was an Executive Vice President and Vice Chairman of W.R. Grace & Co. from 1989 to 1994. Mr. Wright was a member of President Reagan's Cabinet, was Director and Deputy Director of the White House Office of Management and Budget from 1982 to 1989 and was Deputy Secretary of the Department of Commerce from 1981 to 1982. He received the Distinguished Citizens Award from President Reagan in 1988. Mr. Wright is a director of Terremark Worldwide, Inc. and Federal Signal Corporation.

GEORGE M.L. LABRANCHE, IV. Age 55. Mr. LaBranche has been Chairman, Chief Executive Officer and President of LaBranche since its initial public offering in August 1999, and has served as the Chief Executive Officer of LaBranche Capital, LLC since October 2009. Mr. LaBranche joined LaBranche and became a specialist at LaBranche & Co. LLC in 1977, and became the president of LaBranche & Co. LLC in August 1999.

KATHERINE ELIZABETH DIETZE. Age 53. Ms. Dietze has been a member of LaBranche's board of directors since January 2007. Ms. Dietze spent over 20 years in the financial services industry prior to her retirement in 2005. From 2003 to 2005, Ms. Dietze was Global Chief Operating Officer for the Investment Banking Division of Credit Suisse First Boston. From 1996 to 2003, she was a Managing Director in Credit Suisse First Boston's Telecommunications Group. Prior to that, Ms. Dietze was a Managing Director and Co-Head of the Telecommunications Group in Salomon Brothers Inc's Investment Banking Division. Ms. Dietze began her career at Merrill Lynch Money Markets after which she moved to Salomon Brothers Inc to work on money market products and later became a member of the Investment Banking Division. Ms. Dietze is a member of the board of directors and chairs the compensation committee of Matthews International Corporation, a designer, manufacturer and marketer of memorialization products and brand solutions. Ms. Dietze is also a member of the board of trustees of Liberty Property Trust, a self-administered and self-managed Maryland real estate investment trust, which provides leasing, property management, development, acquisition, and other tenant-related services for a portfolio of industrial & office properties.

DESCRIPTION OF COWEN CAPITAL STOCK

The following description of the material terms of the capital stock of Cowen includes a summary of specified provisions of Cowen's amended and restated certificate of incorporation. This description is subject to the relevant provisions of Delaware law and is qualified by reference to Cowen's amended and restated certificate of incorporation.

Authorized Capital Stock

Cowen is authorized to issue 500,000,000 shares of common stock, which consists of 250,000,000 shares of Class A common stock, par value $0.01 per share, and 250,000,000 shares of Class B common stock, par value $0.01 per share, and 10,000,000 shares of preferred stock, par value $0.01 per share. Subject to the rights of holders of any outstanding preferred stock, the number of authorized shares of common stock or preferred stock may be increased or decreased by the affirmative vote of the holders of a majority of the shares entitled to vote on such matters, but in no instance can the number of authorized shares be reduced below the number of shares then outstanding.

As of , 2001, Cowen has outstanding shares of Class A common stock and no shares of Class B common stock or preferred stock.

Common Stock

Voting Rights

Each holder of Class A common stock is entitled to one vote per share in connection with the election of directors and on all other matters submitted to a stockholder vote, provided, however, that, except as otherwise required by law, holders of Class A common stock are not entitled to vote on any amendment to Cowen's amended and restated certificate of incorporation that relates solely to the terms of one or more outstanding series of Cowen preferred stock, if holders of the Cowen preferred stock series are entitled to vote on the amendment under Cowen's certificate of incorporation or Delaware law. No holder of Class A common stock may cumulate votes in voting for Cowen directors.

Each holder of Class B common stock is not entitled to vote except as otherwise provided by law, provided however that Cowen must obtain the consent of a majority of the holders of Class B common stock to effect any amendment, alteration or repeal of any provision of the Cowen amended and restated certificate of incorporation or amended and restated by-laws that would adversely affect the voting powers, preferences or rights of holders of Class B common stock. Except as otherwise provided by law, Class B common stock shares will not be counted as shares held by stockholders for purposes of determining whether a vote or consent has been approved or given by the requisite percentage of shares.

Stockholders may only take action at an annual or special meeting of stockholders and are not authorized to take action by written consent or electronic transmission.

Agreements with BA Alpine Holdings, Inc.

Until BA Alpine Holdings, Inc. and its affiliates no longer beneficially own any shares of Cowen common stock, RCG has agreed with BA Alpine Holdings, Inc. (1) not to vote the shares of Cowen Class A common stock held by RCG in favor of an amendment to the terms of the Cowen Group Class B common stock without the prior consent of BA Alpine Holdings, Inc. and (2) to vote the shares of Cowen Class A common stock held by RCG as directed by BA Alpine Holdings, Inc. with respect to an amendment to the terms of Cowen's certificate of incorporation or by-laws which is intended to discriminate against BA Alpine Holdings relative to the other members of RCG.

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Terms of Conversion

Each share of Class A common stock is convertible at the option of the holder and at no cost into one share of Class B common stock, and each share of Class B common stock is convertible at the option of the holder and at no cost into one share of Class A common stock. The conversion ratios will be adjusted proportionally to reflect any stock split, stock dividend, merger, reorganization, recapitalization or other change in the Class A common stock and Class B common stock. Upon conversion, converted shares resume the status of authorized and unissued shares. The certificate of incorporation of Cowen provides for two classes of common stock, and for the convertibility of each class into the other, to provide a mechanism by which holders of Class A common stock of Cowen who may be limited in the amount of voting common stock of Cowen they can hold pursuant to federal, state or foreign bank laws, to convert their shares into non-voting Class B common stock to prevent being in violation of such laws.

Dividend Rights

Subject to the preferences of the holders of any Cowen preferred stock that may be outstanding from time to time, each share of Class A common stock and Class B common stock will have an equal and ratable right to receive dividends and other distributions in cash, property or shares of stock as may be declared by the Cowen board of directors out of assets or funds legally available for the payment of dividends and other distributions.

Liquidation Rights

In the event of the liquidation, dissolution or winding up of Cowen, subject to the preferences of the holders of any Cowen preferred stock that may be outstanding from time to time, holders of Class A common stock and Class B common stock will be entitled to share equally and ratably in the assets available for distribution to Cowen stockholders.

Redemption and Sinking Fund

There are no redemption or sinking fund provisions applicable to the Class A or the Class B common stock.

Exchange Listing

Cowen's Class A common stock is currently listed on the NASDAQ Global Select Market under the symbol "COWN."

Transfer Agent and Registrar

The transfer agent and registrar for Cowen's common stock is Computershare Investor Services.

Certain Transfer Restrictions

Certain shares of Cowen's Class A common stock held by RCG are subject to certain restrictions and limitations on transfer.

Preferred Stock

Cowen's amended and restated certificate of incorporation permits Cowen to issue up to 10,000,000 shares of Cowen preferred stock in one or more series with such designations, titles, voting powers, preferences and rights and such qualifications, limitations and restrictions as may be fixed by the Cowen board of directors without any further action by Cowen stockholders. The Cowen board of directors may increase or decrease the number of shares of any series of preferred stock following the

issuance of that series of preferred stock, but in no instance can the number of shares of a series of preferred stock be reduced below the number of shares of the series then outstanding.

Stock Incentive and Other Compensation Plans

Cowen currently maintains the Cowen Group, Inc. 2007 Equity and Incentive Plan (which we refer to as the 2007 Equity and Incentive Plan), the Cowen Group, Inc. 2006 Equity and Incentive Plan (which we refer to as the 2006 Equity and Incentive Plan) the Cowen Group, Inc. 2010 Equity and Incentive Plan (which we refer to as the 2010 Equity and Incentive Plan and, together with the 2006 Equity Incentive Plan and the 2007 Equity and Incentive Plan, the Equity and Incentive Plans). Under the Equity and Incentive Plans, Cowen has reserved 671,273 shares of Cowen's Class A common stock (subject to adjustment upon certain corporate events) for issuance to eligible individuals in the form of stock options, stock appreciation rights, awards of restricted stock, restricted stock units, other stock-based awards or other cash-based awards. The 2006 Equity and Incentive Plan's term is currently scheduled to expire on December 7, 2016, the 2007 Equity and Incentive Plan's term is currently scheduled to expire on April 16, 2017 and the 2010 Equity and Incentive Plan's term is currently scheduled to expire on June 7, 2020.

Antitakeover Effects of Delaware Law and Cowen's Organizational Documents

Cowen's amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay, defer or discourage another party from acquiring control of Cowen. Cowen expects that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of Cowen to first negotiate with Cowen's board of directors, which Cowen believes may result in an improvement of the terms of any such acquisition in favor of Cowen's stockholders. However, they also give Cowen's board of directors the power to discourage acquisitions that some stockholders may favor.

Undesignated Preferred Stock

The ability to authorize undesignated preferred stock will make it possible for Cowen's board of directors to issue preferred stock with super voting, special approval, dividend or other rights or preferences on a discriminatory basis that could impede the success of any attempt to acquire us. These and other provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control or management of Cowen.

Requirements for Advance Notification of Stockholder Meetings, Nominations and Proposals

Cowen's amended and restated certificate of incorporation and amended and restated bylaws provide that special meetings of the stockholders may be called at the exclusive request of the board of directors, of the chairman of the board of directors or the chief executive officer. Cowen's amended and restated certificate of incorporation and amended and restated bylaws prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting at the exclusive request of the board of directors, of the chairman of the board of directors or the chief executive officer. These provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control or management of Cowen's.

Cowen's amended and restated bylaws has established advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors. In order for any matter to be "properly brought" before a meeting, a stockholder will have to comply with advance notice requirements and provide Cowen with certain information. Additionally,

vacancies and newly created directorships may be filled only by a vote of a majority of the directors then in office, even though less than a quorum, and not by the stockholders. Cowen's amended and restated bylaws allow the presiding officer at a meeting of the stockholders to adopt rules and regulations for the conduct of meetings which may have the effect of precluding the conduct of certain business at a meeting if the rules and regulations are not followed. These provisions may also defer, delay or discourage a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of Cowen.

Stockholder Action by Written Consent

Pursuant to Section 228 of the Delaware General Corporation Law, any action required to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of Cowen's stock entitled to vote thereon were present and voted, unless Cowen's amended and restated certificate of incorporation provides otherwise. Cowen's amended and restated certificate of incorporation provides that any action required or permitted to be taken by Cowen's stockholders may be effected at a duly called annual or special meeting of Cowen's stockholders and may not be effected by consent in writing or electronic transmission by such stockholders.

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COMPARISON OF RIGHTS OF LABRANCHE STOCKHOLDERS AND COWEN STOCKHOLDERS

	COWEN	LABRANCHE
Outstanding Capital Stock	Cowen has outstanding only one class of common stock, its Class A common stock, par value $0.01 per share. Holders of Cowen common stock are entitled to all the rights and obligations provided to common stockholders under the DGCL and Cowen's certificate of incorporation and bylaws (each as amended and restated and in effect on the date hereof).	LaBranche has outstanding its common stock, par value $0.01 per share. Holders of LaBranche common stock are entitled to all the rights and obligations provided to common stockholders under the DGCL and LaBranche's certificate of incorporation and bylaws (each as amended and restated and in effect on the date hereof).
Authorized Capital	The aggregate number of shares that Cowen has the authority to issue is 510,000,000, of which 10,000,000 are shares of preferred stock, $0.01 par value per share, and 500,000,000 are shares of common stock, $0.01 par value per share. Of the authorized common stock, 250,000,000 are shares of Class A common stock and 250,000,000 are shares of Class B common stock. No series of preferred stock is currently designated by the Cowen board of directors. As of the date of this joint proxy statement/ prospectus, Cowen does not have outstanding any shares of preferred stock.	LaBranche is authorized to issue 200,000,000 shares of common stock, par value of $0.01 per share, and 10,000,000 shares of "blank check" preferred stock, par value of $0.01 per share. No series of preferred stock is currently designated by the LaBranche board of directors. As of the date of this joint proxy statement/ prospectus, LaBranche does not have outstanding any shares of preferred stock.
Voting Rights	Each holder of Cowen Class A common stock is entitled to one vote per share in connection with the election of directors and on all other matters submitted to a stockholder vote, provided, however, that, except as otherwise required by law, holders of Cowen Class A common stock are not entitled to vote on any amendment to Cowen's amended and restated certificate of incorporation that relates solely to the terms of one or more outstanding series of Cowen preferred stock, if holders of the Cowen preferred stock series are entitled to vote on the amendment under Cowen's certificate of incorporation or Delaware law. No holder of Cowen Class A common stock may cumulate votes in voting for Cowen directors. Each holder of Cowen Class B common stock is not entitled to vote except as otherwise provided by law, provided however that Cowen must obtain the consent of a majority of the holders of Cowen Class B common stock to effect any amendment,	Holders of LaBranche common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders. Cumulative voting for the election of directors is not authorized by LaBranche's certificate of incorporation, which means that the holders of a majority of the shares voted can elect all of the directors then standing for election.

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	COWEN	LABRANCHE
	alteration or repeal of any provision of the Cowen amended and restated certificate of incorporation or amended and restated by-laws that would adversely affect the voting powers, preferences or rights of holders of Cowen Class B common stock. Except as otherwise provided by law, Cowen Class B common stock shares will not be counted as shares held by stockholders for purposes of determining whether a vote or consent has been approved or given by the requisite percentage of shares.	
Stock Transfer Restrictions	Certain shares of Cowen's Class A common stock held by RCG and HVB Alternative Advisors LLC, an affiliate of BA Alpine Holdings, Inc., are subject to certain restrictions and limitations on transfer.	Not applicable.
Dividends	Subject to the preferences of the holders of any Cowen preferred stock that may be outstanding from time to time, each share of Class A common stock and Class B common stock will have an equal and ratable right to receive dividends and other distributions in cash, property or shares of stock as may be declared by the Cowen board of directors out of assets or funds legally available for the payment of dividends and other distributions.	Subject to preferences that may be applicable to any preferred stock outstanding at the time, the holders of outstanding shares of LaBranche common stock are entitled to receive dividends out of assets legally available therefor at such times and in such amounts as LaBranche's board of directors from time to time may determine.
Number of Directors	Cowen's bylaws provide that the number of directors will be fixed by the board of directors from time to time, but shall not be less than four and not more than twelve. There are currently nine positions authorized by the board of directors and seven directors serving on Cowen's board of directors.	LaBranche's bylaws provide that the number of directors shall be not less than one director and will be fixed by the Board from time to time without the need for stockholder approval. The LaBranche board is divided into three classes. Each class must be as nearly equal in number as possible. There are currently five positions authorized by the board of directors and five directors serving on LaBranche's board of directors.
Election of Directors	Cowen's bylaws provide that directors are elected by majority of shares present in person or by proxy and entitled to vote and, to the extent so authorized, by the holders of preferred stock in accordance with the terms of any applicable certificate of designations. Pursuant to Cowen's bylaws, each director holds office until the next annual meeting of stockholders and until his or her successor is	LaBranche's bylaws provide that the vote of the holders of a majority of the shares of the LaBranche's capital stock having voting power present in person or represented by proxy at any meeting of stockholders. Each class of directors serves a staggered three-year term, and the term of each of the other two classes of directors expires in one of the next two succeeding years.

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	COWEN	LABRANCHE
	elected and qualified, subject to such director's death, resignation or removal.	
Removal of Directors	Under the Cowen certificate of incorporation, a director may resign his office at any time, and any director may be removed from office with or without cause at any time by the affirmative vote of stockholders holding at least a majority of the outstanding shares of Cowen stock entitled to vote in an election of directors, given at a meeting of stockholders at which directors are elected or at a special meeting of the stockholders.	Pursuant to the DGCL, unless a certificate of incorporation otherwise provides, in the case of a corporation whose board is classified, stockholders may effect removal of a director only for cause. LaBranche's certificate of incorporation does not provide otherwise.
Action by Written Consent	Cowen's amended and restated certificate of incorporation provides that any action required or permitted to be taken by Cowen's stockholders may be effected at a duly called annual or special meeting of Cowen's stockholders and may not be effected by consent in writing or electronic transmission by such stockholders.	LaBranche's certificate of incorporation provides that its stockholders may not take action by written consent, but only at an annual or special meeting of stockholders.
Advance Notice Requirements for Stockholder Nominations and Other Proposals	For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of Cowen at Cowen's principal place of business and such business must be a proper subject for stockholder action under the DGCL. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of Cowen not less than ninety (90) days nor more than one hundred twenty (120) days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is changed by more than thirty (30) days from such anniversary date, notice by the stockholder to be timely must be delivered to or mailed and received at the principal executive offices of Cowen no later than the close of business on the tenth (10) day following the earlier of (i) the date on which notice of the date of the meeting was mailed and (ii) the date on which public disclosure of the meeting date was made.	No comparable provision.

	COWEN	LABRANCHE
	A stockholder's notice to the Secretary with respect to business to be brought at an annual meeting shall set forth (1) the nature of the proposed business with reasonable particularity, including the exact text of any proposal to be presented for adoption, and the reasons for conducting that business at the annual meeting, (2) with respect to each such stockholder, that stockholder's name and address (as they appear on the records of Cowen), business address and telephone number, residence address and telephone number, and the number of shares of each class of capital stock of Cowen beneficially owned by that stockholder, (3) any material interest of the stockholder in the proposed business, (4) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and (5) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.	
Amendments to the Certificate of Incorporation	Cowen reserves the right to amend its certificate of incorporation in any manner permitted by the DGCL.	Any amendment to LaBranche's certificate of incorporation provisions governing the number, classification, term, and removal of directors, actions by written consent of stockholders and the calling of special meetings of stockholders must be approved by either (a) a majority of the Continuing Directors(1) (in addition to the vote otherwise required by the DGCL) or (b) the affirmative vote of the holders of (i) eighty percent (80%) of the outstanding voting shares voting as a single class and (ii) if an Interested Stockholder(2), either directly or

(1) A "Continuing Director" is any member of the Board who is unaffiliated with, and not a nominee of, an Interested Stockholder, and any successor of a Continuing Director who is unaffiliated with, and not a nominee of, an Interested Stockholder and is approved to succeed a Continuing Director by a majority of Continuing Directors then on the Board.

(2) An "Interested Stockholder" is any person (other than (i) LaBranche, (ii) any of its subsidiaries, (iii) any stockholder who, pursuant to Article II of the LaBranche stockholders' agreement, has a power to direct the vote of the stockholders party thereto, (iv) any employee benefit plan of LaBranche or any entity holding shares of Common Stock for or pursuant to the terms of any such plan, (v) any person who acquires more than 10% of the outstanding voting shares with the prior approval of the Continuing Directors), who is (A) the beneficial owner of more than 10% of the voting power of the then outstanding voting shares or (B) an assignee of or has succeeded to the beneficial ownership of any voting shares which were at any time within the three-year period immediately prior to the date in question beneficially owned by the Interested Stockholder.

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	COWEN	LABRANCHE
		indirectly, through agreement or any other arrangement, proposes such amendment, sixty-six and two-thirds percent (66$^{2}/_{3}$%) of the outstanding voting shares which are not beneficially owned, directly or indirectly, by such Interested Stockholder, voting as a single class.
Amendments to Bylaws	Cowen's bylaws provide that the board of directors of Cowen shall have the power to make, rescind, alter, amend and repeal Cowen's bylaws, provided, however, that the stockholders shall have power to rescind, alter, amend or repeal any bylaws made by Cowen's board of directors, and to enact bylaws which if so expressed shall not be rescinded, altered, amended or repealed by Cowen's board of directors.	Subject to certain supermajority voting requirements as described below, LaBranche's bylaws may be altered, amended, or repealed by a majority of the number of directors then constituting the board of directors at any regular meeting of the board of directors without prior notice, or at any special meeting of the board of directors if notice of such alteration, amendment, or repeal be contained in the notice of such special meeting. Any amendment of LaBranche's bylaws governing special meetings of stockholders, the number, election, term, vacancy, removal of directors or to the amendment procedure itself is subject to the same approval requirements for any amendments to certain provisions of the certificate of incorporation, discussed above.
Special Meeting of Stockholders	Cowen's organizational documents provide that special meetings of the stockholders for any purpose may be called, and business to be considered at any such meeting may be proposed, at any time by the Chairman of the Cowen board of directors, by a majority of the board of directors at any time in office or by the President or Chief Executive Officer. Special meetings shall be held at such place or places within or without the State of Delaware as shall from time to time be designated by the Cowen board of directors. At a special meeting no business shall be transacted and no corporate action shall be taken other than that stated in the notice of the meeting.	LaBranche's bylaws provide that special meetings of LaBranche's stockholders may only be called by (i) the Chairman of the Board or (ii) the Secretary of LaBranche within 10 calendar days after receipt of the written request of a majority of the total number of directors which LaBranche would have if there were no vacancies.
Limitation of Personal Liability of Directors	Cowen's certificate of incorporation provides that a director of Cowen shall not be personally liable for monetary damages for breach of a fiduciary duty except for liability: (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders;	LaBranche's certificate of incorporation provides that a director of Cowen shall not be personally liable for monetary damages for breach of a fiduciary duty except for liability in the same circumstances as provided in Cowen's certificate of incorporation.

	COWEN	LABRANCHE
	(b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) under Section 174 of the DGCL; or (d) for any transaction from which the director derived an improper personal benefit.	
Indemnification of Directors and Officers	Cowen's bylaws require Cowen to indemnify each director and officer, including former directors or officers, and any employee of Cowen, who shall serve as an officer or director of any corporation or other form of business entity at the request of Cowen, to the full extent permitted by the DGCL. Cowen's bylaws provide that Cowen must indemnify, to the full extent permitted by the DGCL, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a director or officer of Cowen, or is or was serving at the request of Cowen as a director, officer, employee or agent of another enterprise. Cowen's bylaws provide that Cowen must indemnify, to the full extent permitted by the DGCL, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of Cowen by reason of the fact that he or she is or was a director or officer of Cowen, or is or was serving at the request of Cowen as a director, officer, employee or agent of another enterprise.	LaBranche's bylaws require LaBranche to indemnify any director or officer of LaBranche, and may indemnify any other person, who was or is a party or is threatened to be made a party to any threatened, pending, or completed action (other than an action by or in the right of LaBranche) by reason of the fact that the person is or was a director, officer, employee, or agent of LaBranche, or is or was serving at the request of LaBranche as a director, officer, employee, or agent of another enterprise. LaBranche's bylaws require LaBranche to indemnify any director or officer, and may indemnify any other person, who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of LaBranche to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee, or agent of LaBranche, or is or was serving at the request of LaBranche as a director, officer, employee, or agent of another enterprise.

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NO APPRAISAL RIGHTS

Appraisal rights are statutory rights that, if applicable under law, enable stockholders to dissent from an extraordinary transaction, such as a significant business combination, and to demand that the corporation pay the fair value for their shares as determined by a court in a judicial proceeding instead of receiving the consideration offered to stockholders in connection with the extraordinary transaction. Appraisal rights are not available in all circumstances, and exceptions to these rights are provided under the DGCL.

Section 262 of the DGCL provides that stockholders have the right, in some circumstances, to dissent from corporate action and to instead demand payment of the fair value of their shares. Stockholders do not have appraisal rights with respect to shares of any class or series of stock if such shares of stock, or depositary receipts in respect thereof, are either (i) listed on a national securities exchange or (ii) held of record by more than 2,000 holders, unless the stockholders receive in exchange for their shares anything other than shares of stock of the surviving or resulting corporation (or depositary receipts in respect thereof) or of any other corporation that is publicly listed or held by more than 2,000 holders of record, cash in lieu of fractional shares or fractional depositary receipts described above or any combination of the foregoing.

Therefore, because LaBranche common stock is listed on the New York Stock Exchange and holders of LaBranche's common stock will receive shares of Cowen Class A common stock as a result of the merger, holders of LaBranche common stock will not be entitled to dissenters' appraisal rights in the transactions with respect to their shares of LaBranche common stock.

Since Cowen is not a party to the merger, holders of Cowen Class A common stock are also not entitled to dissenters' appraisal rights in connection with the merger under Delaware law.

LEGAL MATTERS

The validity of the shares of Cowen Class A common stock to be issued pursuant to the merger will be passed upon by Willkie Farr & Gallagher LLP. The material U.S. federal income tax consequences relating to the merger will be passed upon for Cowen by Willkie Farr & Gallagher LLP and for LaBranche by Weil Gotshal & Manges LLP.

EXPERTS

Cowen

The financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this joint proxy statement/prospectus by reference to the Annual Report on Form 10-K for the year ended December 31, 2010 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

LaBranche

The consolidated financial statements of LaBranche as of December 31, 2010 and 2009, and for each of the three years in the period ended December 31, 2010, appearing in LaBranche's Annual Report on Form 10-K for the year ended December 31, 2010, and the effectiveness of LaBranche's internal control over financial reporting as of December 31, 2010, have been audited by Rothstein, Kass & Company, P.C., independent registered public accounting firm, as set forth in its reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

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STOCKHOLDER PROPOSALS

Cowen

Cowen will hold a regular annual meeting in 2011 regardless of whether the merger is completed.

In order for a stockholder proposal, including a director nomination, to be considered for inclusion in Cowen's proxy statement for its 2011 annual meeting of stockholders, the written proposal must have been received at Cowen's principal executive offices on or before December 31, 2010. Such a proposal should have been addressed to Cowen Group, Inc., Attention: Corporate Secretary, 599 Lexington Avenue, New York, New York, 10022. Such a proposal must comply with SEC regulations regarding the inclusion of stockholder proposals in company-sponsored proxy materials.

In accordance with Cowen's bylaws, a Cowen stockholder who wishes to present a proposal for consideration at Cowen's 2011 annual meeting must deliver a notice of the matter the Cowen stockholder wishes to present to Cowen's principal executive offices in New York, New York, at the address identified in the preceding paragraph, not less than 90 nor more than 120 days prior to the first anniversary of the date of Cowen's 2010 annual meeting. Accordingly, any notice given by or on behalf of a Cowen stockholder pursuant to these provisions of Cowen's bylaws (and not pursuant to Rule 14a-8 of the SEC) must be received no earlier than February 7, 2011, and no later than March 9, 2011. The notice should include (i) a brief description of the business desired to be brought before Cowen's 2011 annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and record address of the stockholder, (iii) the class or series and number of shares of capital stock of Cowen beneficially owned or owned of record by the stockholder, (iv) a description of all arrangements or understandings between the stockholder and any other person or persons (including their names) in connection with the proposal and any material interest of the stockholder in such business and (v) a representation that the stockholder intends to appear in person or by proxy at Cowen's 2011 annual meeting to bring such business before the meeting.

LaBranche

It is not expected that LaBranche will hold an annual meeting of stockholders for 2011 unless the merger is not completed. In order to be considered for inclusion in the proxy statement and form of proxy for the 2011 annual meeting of stockholders, should one be held, stockholder proposals must have been submitted in writing and received no later than November 30, 2010 in accordance with the requirements of 14a-8 of the Exchange Act.

Stockholders desiring to bring business before the 2011 annual meeting of stockholders in a form other than a stockholder proposal in accordance with the preceding paragraph, must give written notice to LaBranche's Secretary at LaBranche's principal office received no later than 60 days nor more than 90 days before the date of the meeting.

HOUSEHOLDING OF JOINT PROXY STATEMENT/PROSPECTUS

The SEC has adopted rules that permit companies and intermediaries such as brokers to satisfy delivery requirements for proxy statements and annual reports with respect to two or more stockholders sharing the same address by delivering a single proxy statement or annual report, as applicable, addressed to those stockholders. As permitted by the Exchange Act, only one copy of this joint proxy statement/prospectus is being delivered to stockholders residing at the same address, unless stockholders have notified the company whose shares they hold of their desire to receive multiple copies of the joint proxy statement/prospectus. This process, which is commonly referred to as "householding," potentially provides extra convenience for stockholders and cost savings for companies.

If, at any time, you no longer wish to participate in householding and would prefer to receive a separate joint proxy statement/prospectus, or if you are receiving multiple copies of this joint proxy

statement/prospectus and wish to receive only one, please contact the company whose shares you hold at their address identified in the preceding paragraph. Each of LaBranche and Cowen will promptly deliver, upon oral or written request, a separate copy of this joint proxy statement/prospectus to any stockholder residing at an address to which only one copy was mailed. Requests for additional copies should be directed to: Cowen Group, Inc., Attention: Investor Relations, 599 Lexington Avenue, New York, New York, 10022, (646) 562-1888 or to LaBranche & Co Inc., Attention: Investor Relations, 33 Whitehall Street, New York, New York 10004 (212) 425-1144.

OTHER MATTERS

Other Matters Presented at the Special Meetings

As of the date of this joint proxy statement/prospectus, neither the Cowen board of directors nor the LaBranche board of directors knows of any other matters that may be presented for consideration at either the Cowen special meeting or the LaBranche special meeting. If any other business does properly come before either the Cowen special meeting or the LaBranche special meeting or any adjournment or postponement thereof the persons named as proxies on the enclosed proxy cards of LaBranche and Cowen will vote as they deem in the best interests of LaBranche and Cowen, as applicable.

WHERE YOU CAN FIND MORE INFORMATION

LaBranche and Cowen each file annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act. You may read and copy any of this information at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. The SEC also maintains an Internet website that contains reports, proxy and information statements, and other information regarding issuers, including LaBranche and Cowen, who file electronically with the SEC. The address of that site is *www.sec.gov*.

Investors may also consult LaBranche's or Cowen's website for more information about LaBranche or Cowen, respectively. LaBranche's website is *www.labranche.com*. Cowen's website is *www.cowen.com*. Information included on these websites is *not* incorporated by reference into this joint proxy statement/prospectus.

Cowen has filed with the SEC a registration statement of which this joint proxy statement/prospectus forms a part. The registration statement registers the shares of Cowen Class A common stock to be issued to LaBranche stockholders pursuant to the merger. The registration statement, including the attached exhibits, contains additional relevant information about Cowen and Cowen Class A common stock. The rules and regulations of the SEC allow LaBranche and Cowen to omit certain information included in the registration statement from this joint proxy statement/prospectus.

In addition, the SEC allows LaBranche and Cowen to disclose important information to you by referring you to other documents filed separately with the SEC. This information is considered to be a part of this joint proxy statement/prospectus.

This joint proxy statement/prospectus incorporates by reference the documents listed below that Cowen has previously filed with the SEC (other than information furnished pursuant to Item 2.01 or Item 7.01 of a Current Report on Form 8-K). These documents contain important information about Cowen, its financial condition or other matters.

- Annual Report on Form 10-K for the fiscal year ended December 31, 2010 filed March 14, 2011.

- Proxy Statement on Schedule 14A filed April 30, 2010.

- Current Reports on Form 8-K or 8-K/A, filed January 5, 2011, February 11, 2011, February 17, 2011, March 4, 2011.

- The description of the Cowen Class A common stock contained in Cowen's registration statement on Form S-4 filed with the SEC under Section 12 of the Exchange Act on July 10, 2009, including any subsequently filed amendments and reports updating such description.

In addition, Cowen incorporates by reference any future filings it makes with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this joint proxy statement/prospectus and prior to the date of the Cowen special meeting (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless expressly stated otherwise therein). Such documents are considered to be a part of this joint proxy statement/prospectus, effective as of the date such documents are filed.

You can obtain any of these documents from the SEC, through the SEC's website at the address described above, or Cowen will provide you with copies of these documents, without charge, upon written or oral request to:

Cowen Group, Inc.
599 Lexington Avenue, 20th Floor
New York, NY 10022
(212) 845-7900
Attn: Investor Relations

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This joint proxy statement/prospectus incorporates by reference the documents listed below that LaBranche has previously filed with the SEC (other than information furnished pursuant to Item 2.01 or Item 7.01 of a Current Report on Form 8-K). These documents contain important information about LaBranche, its financial condition or other matters.

Annual Report on Form 10-K for the fiscal year ended December 31, 2010 filed March 16, 2011.

Proxy Statement on Schedule 14A filed April 8, 2010.

Current Reports on Form 8-K or 8-K/A, filed February 17, 2011, February 18, 2011.

In addition, LaBranche incorporates by reference any future filings it makes with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this joint proxy statement/prospectus and prior to the date of the Cowen special meeting (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless expressly stated otherwise therein). Such documents are considered to be a part of this joint proxy statement/prospectus, effective as of the date such documents are filed.

You can obtain any of these documents from the SEC, through the SEC's website at the address described above, or LaBranche will provide you with copies of these documents, without charge, upon written or oral request to:

LaBranche & Co Inc.
33 Whitehall Street
New York, NY 10004
(212) 425-1144
Attn: Investor Relations

In the event of conflicting information in this joint proxy statement/prospectus in comparison to any document incorporated by reference into this joint proxy statement/prospectus, or among documents incorporated by reference, the information in the latest filed document controls.

You should rely only on the information contained or incorporated by reference into this joint proxy statement/prospectus. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this joint proxy statement/prospectus. This joint proxy statement/prospectus is dated , 2011. You should not assume that the information contained in this joint proxy statement/prospectus is accurate as of any date other than that date. You should not assume that the information incorporated by reference into this joint proxy statement/prospectus is accurate as of any date other than the date of such incorporated document. Neither our mailing of this joint proxy statement/prospectus to Cowen stockholders or LaBranche stockholders nor the issuance by Cowen of shares of common stock pursuant to the merger will create any implication to the contrary.

This document contains a description of the representations and warranties that each of LaBranche and Cowen made to the other in the merger agreement. Representations and warranties made by LaBranche, Cowen and other applicable parties are also set forth in contracts and other documents (including the merger agreement) that are attached or filed as exhibits to this document or are incorporated by reference into this document. These materials are included or incorporated by reference only to provide you with information regarding the terms and conditions of the agreements, and not to provide any other factual information regarding LaBranche, Cowen or their businesses. Accordingly, the representations and warranties and other provisions of the merger agreement should not be read alone, but instead should be read only in conjunction with the other information provided elsewhere in this document or incorporated by reference into this document.

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ANNEX A

AGREEMENT AND PLAN OF MERGER

among

COWEN GROUP, INC.,

LOUISIANA MERGER SUB, INC.

and

LABRANCHE & CO INC.

Dated as of February 16, 2011

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of February 16, 2011 (this "*Agreement*"), among COWEN GROUP, INC., a Delaware corporation ("*Parent*"), LOUISIANA MERGER SUB, INC., a Delaware corporation and a direct wholly owned Subsidiary of Parent ("*Merger Sub*"), and LABRANCHE & CO INC., a Delaware corporation (the "*Company*").

W I T N E S S E T H:

WHEREAS, the respective Boards of Directors of Parent, Merger Sub and the Company have each approved and declared advisable the merger of Merger Sub with and into the Company (the "*Merger*"), upon the terms and subject to the conditions set forth in this Agreement, pursuant to which each outstanding share of common stock, par value $0.01 per share, of the Company ("*Company Common Stock*") issued and outstanding immediately prior to the Effective Time, will be converted into the right to receive shares of Class A Common Stock, par value $0.01 per share, of Parent ("*Parent Common Stock*");

WHEREAS, as a condition to Parent entering into this Agreement and incurring the obligations set forth herein, concurrently with the execution and delivery of this Agreement, Parent is entering into a voting agreement with certain stockholders of the Company (the "*Company Voting Agreement*") pursuant to which, among other things, each of those stockholders has agreed, subject to the terms thereof, to vote all shares of Company Common Stock owned by such stockholder in accordance with the terms of the Company Voting Agreement;

WHEREAS, as a condition to the Company entering into this Agreement incurring the obligations set forth herein, concurrently with the execution and delivery of this Agreement, the Company is entering into a voting agreement with a stockholder of Parent (the "*Parent Voting Agreement*") pursuant to which, among other things, that stockholder has agreed, subject to the terms thereof, to vote all shares of Parent Common Stock owned by such stockholder in accordance with the terms of the Parent Voting Agreement;

WHEREAS, Parent, Merger Sub and the Company desire to make certain representations, warranties, covenants and agreements in connection with the transactions contemplated hereby and also to prescribe various conditions to the transactions contemplated hereby; and

WHEREAS, for federal income tax purposes, Parent, Merger Sub and the Company intend that the Merger and the Second Step Merger, taken together, shall qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "*Code*"), and the regulations promulgated thereunder ("*Treasury Regulations*"), and, by approving resolutions authorizing this Agreement, to adopt this Agreement as a plan of reorganization within the meaning of Section 368(a) of the Code and the Treasury Regulations.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I.

THE MERGER

Section 1.1. *The Merger.* Upon the terms and subject to the conditions hereof, at the Effective Time, Merger Sub shall be merged with and into the Company and the separate existence of Merger Sub shall thereupon cease, and the Company, as the surviving entity in the Merger (the "*Surviving Company*"), shall by virtue of the Merger continue its existence under the Laws of the State of Delaware.

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Section 1.2. *Closing.* Unless this Agreement shall have been terminated pursuant to the provisions of *Section 9.1*, the closing of the Merger (the "*Closing*") will take place on a date to be specified by the parties which shall be no later than the third Business Day after the satisfaction or waiver (subject to applicable Law) of the conditions (excluding conditions that, by their terms, cannot be satisfied until the Closing Date, but subject to the satisfaction or, where permitted, waiver of those conditions as of the Closing) set forth in Article VIII, unless another time or date is agreed to in writing by the parties hereto (the date of the Closing, the "*Closing Date*"). The Closing shall be held at the offices of Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, unless another place is agreed to in writing by the Company and Parent.

Section 1.3. *Effective Time.* Upon the Closing, the parties shall file with the Secretary of State of the State of Delaware a certificate of merger (the "*Certificate of Merger*"). The Merger shall become effective at such time as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware or at such subsequent time as Parent and the Company shall agree and as shall be specified in the Certificate of Merger (the date and time the Merger becomes effective being the "*Effective Time*").

Section 1.4. *Effects of the Merger.* The Merger shall have the effects set forth in the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers, and franchises of the Company and Merger Sub shall vest in the Surviving Company, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Company.

Section 1.5. *Certificate of Incorporation.* The certificate of incorporation of the Surviving Company after the Effective Time shall be in the form set forth as Exhibit A hereto, and thereafter may be amended as provided therein or by Law.

Section 1.6. *By-Laws.* The by-laws of Merger Sub as in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Company, and, thereafter, may be amended as provided therein or by Law, in each case consistent with the obligations set forth in *Section 6.3*, except that references to the name of Merger Sub shall be replaced by references to the name of the Surviving Company.

Section 1.7. *Directors; Officers.* The directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Company and the officers of Merger Sub immediately prior to the Effective Time shall be the officers of the Surviving Company, in each case, until their respective successors are duly elected and qualified or until their death, resignation or removal in accordance with the DGCL and the certificate of incorporation and by-laws of the Surviving Company, as applicable.

Section 1.8. *Effect on Capital Stock.* At the Effective Time by virtue of the Merger and without any action on the part of any holder thereof:

(a) Each share of Company Common Stock issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive 0.998 (the "*Exchange Ratio*") fully paid and nonassessable shares of Parent Common Stock, subject to *Section 2.5* with respect to fractional shares (the "*Merger Consideration*"), other than any shares of Company Common Stock that are owned by, or held in the treasury of, the Company.

(b) All shares of Company Common Stock shall cease to be outstanding and shall be canceled and retired and shall cease to exist, and each holder of a certificate (or evidence of shares in book-entry form) which immediately prior to the Effective Time represented any such shares of Company Common Stock (a "*Certificate*") shall thereafter cease to have any rights with respect to such shares of Company Common Stock, except the right to receive the applicable Merger Consideration, including the amount of cash, if any, payable in lieu of fractional shares of Company Common Stock

pursuant to *Section 2.5* and any dividends or other distributions to which holders become entitled all in accordance with *Article II* upon the surrender of such Certificate.

(c) Each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into one share of common stock, par value $0.01 per share, of the Surviving Company.

(d) If prior to the Effective Time, Parent or the Company, as the case may be, should split, combine or otherwise reclassify the Parent Common Stock or the Company Common Stock, or pay a stock dividend or other stock distribution in Parent Common Stock or Company Common Stock, as applicable, or otherwise change the Parent Common Stock or Company Common Stock into any other securities, or make any other such stock dividend or distribution in capital stock of Parent or the Company in respect of the Parent Common Stock or the Company Common Stock, respectively, then any number or amount contained herein which is based upon the price of the Parent Common Stock or the number of shares of Company Common Stock or Parent Common Stock, as the case may be, will be appropriately adjusted to reflect such split, combination, dividend or other distribution or change to provide to Parent and the holders of Company Common Stock the same economic effect as contemplated by this Agreement prior to such event.

Section 1.9. *Treatment of Options and Other Stock Awards.*

(a) The Company shall take all actions necessary and appropriate (which shall include obtaining written consent from each option holder) in accordance with the Company Stock Plans to provide that upon the Effective Time, each outstanding stock option to purchase Company Common Stock or any other equity security of the Company or any of its Subsidiaries (collectively, "*Company Options*"), whether or not then exercisable or vested, shall be cancelled for no consideration.

(b) The Company shall take all such actions as may be required to (i) ensure that, from and after the Effective Time, holders of Company Options have no rights with respect thereto and (ii) cause the Company Stock Plans to terminate effective no later than the Effective Time.

Section 1.10. *Second Step Merger.*

(a) Immediately following the Effective Time, Parent shall cause the Surviving Company to be merged with and into a direct, wholly owned Delaware limited liability company subsidiary of Parent that is a "disregarded entity" within the meaning of Treasury Regulation Section 1.368-2(b)(1)(i)(A) (the "*Disregarded Subsidiary*"), with the Disregarded Subsidiary surviving such merger (the "*Second Step Merger*"). No consideration shall be issued in the Second Step Merger. The Second Step Merger shall be consummated in a manner consistent with the obligations set forth in *Section 6.3*.

(b) After the Second Step Merger, references herein to the Surviving Company shall refer to the Disregarded Subsidiary.

(c) The Merger and the Second Step Merger, taken together, are intended to be treated as a "reorganization" for United States federal income tax purposes under Section 368(a) of the Code in which the Company is to be treated as merging directly with and into Disregarded Subsidiary with the Company Common Stock converted in such merger into the right to receive the Merger Consideration.

ARTICLE II.

EXCHANGE OF CERTIFICATES

Section 2.1. *Exchange Fund.* At or prior to the Effective Time, Parent shall deposit with The Bank of New York Mellon or such other bank or trust company as Parent shall determine and who shall be reasonably satisfactory to the Company (the "*Exchange Agent*"), in trust for the benefit of holders of shares of Company Common Stock, for exchange in accordance with *Section 1.8*, and Parent

shall instruct the Exchange Agent to timely deliver, in accordance with the terms of *Section 2.2* of this Agreement, the aggregate Merger Consideration, including the amount of cash, if any, payable in lieu of fractional shares of Company Common Stock pursuant to *Section 2.5*. Parent agrees to make available to the Exchange Agent from time to time as needed, cash sufficient to pay any dividends and other distributions pursuant to *Section 2.3*. Any Merger Consideration deposited with the Exchange Agent shall hereinafter be referred to as the "*Exchange Fund.*"

Section 2.2. *Exchange Procedures.* As promptly as practicable, but in no event more than three Business Days after the Effective Time, Parent will cause the Exchange Agent to send to each record holder of a Certificate, (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in form and substance reasonably satisfactory to the Company and Parent) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for the applicable Merger Consideration. Each holder of a Certificate, upon surrender of a Certificate to the Exchange Agent together with such letter of transmittal, duly executed, and such other documents as may reasonably be required by the Exchange Agent, shall be entitled to receive in exchange therefor the applicable Merger Consideration (including in respect of any cash payment in lieu of fractional shares of Parent Common Stock pursuant to *Section 2.5*, if any, or dividends or other distributions to which holders are entitled pursuant to *Section 2.3*, if any), into which the aggregate number of shares of Company Common Stock previously represented by such Certificate shall have been converted pursuant to this Agreement. The Exchange Agent shall accept such Certificates upon compliance with such reasonable terms and conditions as the Exchange Agent may impose to effect an orderly exchange thereof in accordance with normal exchange practices. No interest will be paid or will accrue on any cash payable pursuant to *Section 2.3* or *Section 2.5*. In the event of a transfer of ownership of Company Common Stock which is not registered in the transfer records of the Company, the applicable Merger Consideration, a check in the proper amount of any cash payment, dividends or other distributions to which such holder is entitled pursuant to *Section 2.3* or *Section 2.5*, may be issued with respect to such Company Common Stock to such a transferee only if the Certificate representing such shares of Company Common Stock is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer taxes have been paid.

Section 2.3. *Distributions and Voting with Respect to Unexchanged Shares.* No dividends or other distributions declared or made with respect to shares of Parent Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Parent Common Stock that such holder would be entitled to receive upon surrender of such Certificate. Subject to the effect of applicable Laws, following surrender of any such Certificate, there shall be paid to such holder of shares of Parent Common Stock issuable in exchange therefor, without interest, (a) promptly after the time of such surrender, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Parent Common Stock, and (b) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and a payment date subsequent to such surrender payable with respect to such shares of Parent Common Stock. Any shares of Parent Common Stock to be issued upon the surrender for exchange of Certificates representing Company Common Stock pursuant to *Section 1.8* hereof shall not be entitled to vote on any matters on which stockholders of Parent may vote, the record date of which vote occurs prior to such surrender.

Section 2.4. *No Further Ownership Rights in Company Common Stock.* All Merger Consideration issued and cash paid upon conversion of shares of Company Common Stock in accordance with the terms of *Article I* and this *Article II* (including any cash paid pursuant to *Section 2.3* or *Section 2.5*) shall

be deemed to have been issued or paid in full satisfaction of all rights pertaining to the shares of Company Common Stock.

Section 2.5. *No Fractional Shares of Parent Common Stock.* No certificates or scrip representing less than one share of Parent Common Stock shall be issued upon the surrender for exchange of Certificates representing Company Common Stock pursuant to *Section 1.8* hereof, but in lieu thereof, each holder of Company Common Stock who would otherwise be entitled to a fraction of a share of Parent Common Stock (after aggregating all fractional shares of Parent Common Stock to be received by such holder) shall receive from Parent an amount of cash (rounded to the nearest whole cent) equal to the product of such fraction multiplied by $4.72.

Section 2.6. *Termination of Exchange Fund.* Any portion of the Exchange Fund which remains undistributed to the holders of Certificates as of the day immediately prior to the first anniversary of the Closing Date shall be delivered to the Surviving Company or otherwise on the instruction of the Surviving Company, and any holders of Certificates who have not theretofore complied with this *Article II* shall thereafter look only to the Surviving Company and Parent (subject to abandoned property, escheat or other similar Laws) for the Merger Consideration with respect to the shares of Company Common Stock formerly represented thereby to which such holders are entitled pursuant to *Section 1.8* and any cash payments, dividends or distributions with respect to shares of Parent Common Stock to which such holders are entitled pursuant to *Section 2.3* or *Section 2.5*.

Section 2.7. *No Liability.* None of Parent, Merger Sub, the Company, the Surviving Company or the Exchange Agent shall be liable to any Person in respect of any Merger Consideration (including in respect of any cash payable in lieu of fractional shares of Parent Common Stock pursuant to *Section 2.5*) from the Exchange Fund delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

Section 2.8. *Lost Certificates.* If any Certificate shall have been lost, stolen or destroyed, upon the making of a customary affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Company, the posting by such Person of a bond in such reasonable amount as the Surviving Company may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will deliver in exchange for such lost, stolen or destroyed Certificate the applicable Merger Consideration with respect to the shares of Company Common Stock formerly represented thereby (including any cash payable in lieu of fractional shares of Parent Common Stock pursuant to *Section 2.5*), and any unpaid dividends and distributions on shares of Parent Common Stock deliverable in respect thereof, pursuant to this Agreement.

Section 2.9. *Withholding Rights.* Each of the Surviving Company, Parent and the Exchange Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of shares of Company Common Stock such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code and Treasury Regulations, or any provision of state, local or foreign tax Law. To the extent that amounts are so withheld by the Surviving Company, Parent or the Exchange Agent, as the case may be, and paid over to the appropriate taxing authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the shares of Company Common Stock in respect of which such deduction and withholding was made by the Surviving Company, Parent or the Exchange Agent, as the case may be.

Section 2.10. *Further Assurances.* At and after the Effective Time, the officers and directors of the Surviving Company will be authorized to execute and deliver, in the name and on behalf of the Company or Merger Sub, any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of the Company or Merger Sub, any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Company any and all right, title and interest in, to and

under any of the rights, properties or assets acquired or to be acquired by the Surviving Company as a result of, or in connection with, the Merger.

Section 2.11. *Stock Transfer Books.* At the close of business, New York time, on the day the Effective Time occurs, the stock transfer books of the Company shall be closed and there shall be no further registration of transfers of shares of Company Common Stock thereafter on the records of the Company. From and after the Effective Time, the holders of Certificates shall cease to have any rights with respect to such shares of Company Common Stock formerly represented thereby, except as otherwise provided herein or by Law. On or after the Effective Time, any Certificates presented to the Exchange Agent or Parent for any reason shall be converted into the Merger Consideration with respect to the shares of Company Common Stock formerly represented thereby, and any cash payments, dividends or other distributions to which the holders thereof are entitled pursuant to *Section 2.3* or *Section 2.5*.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as disclosed in the Company SEC Reports filed since January 1, 2008 and prior to the date hereof (but excluding matters disclosed in the sections of such reports entitled "Risk Factors" or "Information Regarding Forward-Looking Statements") or on the Company Disclosure Schedule, the Company hereby represents and warrants to Parent and Merger Sub as follows:

Section 3.1. *Corporate Organization.*

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware. The Company has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, other than in such jurisdictions where the failure to so qualify would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Company. True, complete and correct copies of the Amended and Restated Certificate of Incorporation of the Company (the "*Company Charter*") and the Amended and Restated By-Laws of the Company (the "*Company By-Laws*"), as in effect as of the date of this Agreement, have previously been made available to Parent.

(b) Each Subsidiary of the Company (i) is duly incorporated or duly formed, as applicable to each such Subsidiary, and validly existing and in good standing under the Laws of its jurisdiction of organization, (ii) has the requisite corporate power and authority or other power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted and (iii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, have a Material Adverse Effect on the Company.

(c) The minute books of the Company previously made available to Parent contain true, complete and correct records of all meetings and other corporate actions held or taken since January 1, 2008 of its stockholders and Board of Directors and each committee of its Board of Directors.

Section 3.2. *Authorization; No Conflict or Violation.*

(a) The Company has full corporate power and authority to execute and deliver this Agreement and, subject to the receipt of the Required Company Vote, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the

transactions contemplated hereby have been duly and validly approved by the Board of Directors of the Company. The Board of Directors of the Company has determined that this Agreement is advisable and in the best interests of the Company and its stockholders and has directed that this Agreement be submitted to the Company's stockholders for approval and adoption at a duly held meeting of such stockholders and has adopted a resolution to the foregoing effect. Except for the Required Company Vote, no other corporate proceedings on the part of the Company are necessary to approve this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Company and (assuming, with respect to this Agreement, due authorization, execution and delivery by Parent and Merger Sub) constitutes the valid and binding obligations of the Company, enforceable against the Company in accordance with its terms (except as may be limited by bankruptcy, insolvency, fraudulent transfer, moratorium, reorganization or similar Laws of general applicability relating to or affecting the rights of creditors generally and subject to general principles of equity (the "*Bankruptcy and Equity Exception*")).

(b) Except as set forth on *Section 3.2(b)* of the Company Disclosure Schedule, neither the execution and delivery of this Agreement by the Company, nor the consummation by the Company of the transactions contemplated hereby, nor compliance by the Company with any of the terms or provisions of this Agreement, will conflict with, or result in any violation of or default (without notice or lapse of time or both) under, or give rise to a right of termination, cancellation, acceleration of any obligation or to loss of a material benefit under, or give rise to any obligation of the Company or any of its Subsidiaries to make any payment under, or to the increased, additional, accelerated or guaranteed rights or entitlements of any Person under, or result in the creation of any Liens upon any of the properties or assets of the Company or its Subsidiaries under, any provisions of (i) the Company Charter or the Company By-Laws; (ii) any Contract or Permit to which the Company or any of its Subsidiaries is a party; (iii) any judgment, order, injunction or decree of any Governmental Entity applicable to the Company or any of its Subsidiaries or any of their respective properties or assets; or (iv) any applicable Law, except in the case of clauses (ii), (iii) or (iv) for violations, defaults, terminations, cancellations, accelerations, losses, obligations, rights, entitlements or creations of Liens that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Company (provided, that for purposes of clause (ii) of this Section 3.2(b), clause (ii) of the definition of "Material Adverse Effect" shall not be applicable).

Section 3.3. *Consents and Approvals.* Except for (a) filings of applications and notices with, and receipt of consents, authorizations, approvals, exemptions or nonobjections from, the SEC, non-U.S. and state securities authorities, FINRA and other SROs, (b) the filing of a notification and report form under the HSR Act and the termination or expiration of applicable waiting periods under the HSR Act, (c) the filing with the SEC of the proxy statement in a definitive form relating to each of the Company Stockholders Meeting and the Parent Stockholders Meeting (the "*Joint Proxy Statement*") and of a registration statement on Form S-4 pursuant to which the shares of Parent Common Stock issuable in the Merger will be registered with the SEC (the "*Form S-4*") in which the Joint Proxy Statement will be included as a prospectus, and declaration of effectiveness of the Form S-4, (d) the filing of the Certificate of Merger pursuant to the DGCL, (e) any consents, authorizations, approvals, filings or exemptions in connection with compliance with the listing rules of the NYSE or Nasdaq, (f) such filings and approvals as are required to be made or obtained under the Securities Laws in connection with the issuance of the shares of Parent Common Stock pursuant to this Agreement (g) such other consents, approvals, filings and registrations the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Company and (h) the matters set forth on *Section 3.3* of the Company Disclosure Schedule, no consents or approval of or filings or registrations with or notice to any Regulatory Agency or Governmental Entity or any other Person are necessary in connection with (i) the execution and delivery by the Company of this Agreement and (ii) the consummation by the Company of the transactions contemplated by this Agreement.

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Section 3.4. *Capitalization and Related Matters.*

(a) The authorized capital stock of the Company consists of 200,000,000 shares of Company Common Stock, of which, as of February 15, 2011 (the "*Company Capitalization Date*"), 62,654,430 shares were issued and outstanding, and 10,000,000 shares of preferred stock, par value $0.01 per share ("*Company Preferred Stock*"), of which, as of the Company Capitalization Date, no shares were issued and outstanding. As of the Company Capitalization Date, the Company held 21,722,433 shares of Company Common Stock in its treasury. As of the Company Capitalization Date, no shares of Company Common Stock or Company Preferred Stock were reserved for issuance except for 230,000 shares of Company Common Stock reserved for issuance in connection with existing awards under employee benefit, stock option and dividend reinvestment and stock purchase plans and 1,934,257 shares of Company Common Stock reserved for issuance in connection with future awards that have not yet been made under employee benefit, stock option and dividend reinvestment and stock purchase plans. All of the issued and outstanding shares of Company Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof and have not been issued in violation of any applicable Law or any Contract of the Company. As of the date of this Agreement, no bonds, debentures, notes or other indebtedness having the right to vote on any matters on which stockholders of Company may vote ("*Company Voting Debt*") are issued or outstanding. As of the date of this Agreement, except pursuant to this Agreement, and other than as set forth in *Section 3.4(a)* of the Company Disclosure Schedule, the Company does not have and is not bound by any outstanding subscriptions, options, warrants, calls, rights, commitments or agreements of any character calling for the purchase or issuance of, or the payment of any amount based on, any shares of Company Common Stock, Company Preferred Stock, Company Voting Debt or any other equity securities of the Company or any securities representing the right to purchase or otherwise receive any shares of Company Common Stock, Company Preferred Stock, Company Voting Debt or other equity securities of the Company. As of the date of this Agreement, except pursuant to this Agreement, and other than as set forth in *Section 3.4(a)* of the Company Disclosure Schedule, there are no contractual obligations of the Company or any of its Subsidiaries (i) to repurchase, redeem or otherwise acquire any shares of capital stock of the Company or any equity security of the Company or its Subsidiaries or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of the Company or its Subsidiaries or (ii) pursuant to which the Company or any of its Subsidiaries is or could be required to register shares of capital stock or other securities of the Company under the Securities Act.

(b) *Section 3.4(b)* of the Company Disclosure Schedule sets forth a true, complete and correct list of the aggregate number of shares of Company Common Stock subject to Company Options that were outstanding as of the Company Capitalization Date and the names of the holders and the weighted average exercise price for such Company Options. Other than the Company Options that are outstanding as of the Company Capitalization Date, no other subscriptions, options, warrants, calls, rights, commitments or agreements of character calling for the purchase or issuance of, or the payment of any amount based on, any shares of Company Common Stock, Company Preferred Stock, Company Voting Debt or other equity securities of the Company are outstanding as of the Company Capitalization Date. Since the Company Capitalization Date through the date hereof, the Company has not (i) issued or repurchased any shares of Company Common Stock, Company Preferred Stock, Company Voting Debt or other equity securities of the Company or (ii) issued or awarded or committed to issue or award any options, stock appreciation rights, restricted shares, restricted stock units, deferred equity units, awards based on the value of the Company capital stock or any other equity-based awards under any of the Company Stock Plans or Company Benefit Plans.

(c) All grants of Company Options and any other grants of stock options or other equity interests were validly issued and properly approved by the Company's Board of Directors (and all required

approvals by the stockholders of the Company have been obtained) in accordance with all applicable Law and no such grants involved any "backdating" or similar practices with respect to the effective date of grant. The per share exercise price of each Company Option was not less than the fair market value of the Company Common Stock on the applicable grant date (as determined in a manner consistent with Treasury Regulation §1.409A-1(b)(5)(iv)) and each such grant was properly accounted for in all material respects in accordance with GAAP in the financial statements (including the related notes) of the Company and disclosed in the Company's filings with the SEC in accordance with the Exchange Act and other applicable securities Laws. No modifications have been made to any Company Options after the applicable date of grant.

(d) All of the issued and outstanding shares of capital stock or other equity ownership interests of each Subsidiary of the Company are owned by the Company, directly or indirectly, free and clear of any Liens, and all of such shares or equity ownership interests are duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights. No Subsidiary of the Company has or is bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of capital stock or any other equity security of such Subsidiary or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of such Subsidiary. Except as set forth in *Section 3.4(d)* of the Company Disclosure Schedule, the Company does not have any Subsidiaries and does not own any capital stock or other equity or voting securities or other rights convertible or exchangeable into or exercisable for equity or voting securities, or any other rights, interests or investments, in any other Person.

(e) The Company has no rights plan, "poison-pill" or other similar agreement or arrangement or any anti-takeover provision in the Company Organizational Documents that is, or at the Effective Time shall be, applicable to the Company, the Company Common Stock, the Company Preferred Stock, the Merger or the other transactions contemplated by this Agreement.

(f) As of the date hereof, (i) the Company Consolidated Tangible Book Equity is greater than or equal to $193,000,000 and (ii) the aggregate value of the assets reflected on the Unaudited Company Balance Sheet is less than or equal to four and one-half times the Company Consolidated Tangible Book Equity, in each case, calculated as of the date hereof.

Section 3.5. *Company SEC Reports.* The Company has filed or furnished all forms, documents and reports required to be filed with or furnished to the SEC by the Company or any of its Subsidiaries pursuant to the Securities Act or the Exchange Act on or after January 1, 2008 (the "*Company SEC Reports*"). No such Company SEC Report, at the time filed or furnished (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading, except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Company SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of the Company has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

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Section 3.6. *Company Financial Statements.*

(a) The financial statements of the Company and its Subsidiaries included (or incorporated by reference) in the Company SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are based upon, the books and records of the Company and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders' equity and consolidated financial position of the Company and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount), (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the applicable published rules and regulations of the SEC then in effect with respect thereto, and (iv) have been prepared in accordance with U.S. generally accepted accounting principles ("*GAAP*") consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto.

(b) Except (i) for those liabilities that are reflected or reserved against on the consolidated balance sheet of the Company included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2009 (including any notes thereto), (ii) for liabilities incurred in the Ordinary Course of Business since December 31, 2009 or in connection with this Agreement and the transactions contemplated hereby or (iii) as set forth on *Section 3.6(b)* of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries has any liability or obligation of any nature whatsoever (whether absolute, accrued, contingent, determined, determinable or otherwise and whether due or to become due) that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect on the Company.

(c) The Company (i) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to provide reasonable assurance that material information relating to the Company, including its consolidated Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Company by others within those entities, and (ii) has disclosed, based on its most recent evaluation prior to the date hereof, to the Company's outside auditors and the audit committee of the Company's Board of Directors (A) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting. The disclosures made pursuant to *Section 3.6(c)(ii)* were made in writing by management to the Company's auditors and audit committee, a copy of which has previously been made available to Parent.

(d) Since December 31, 2009, neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, 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 regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that the Company or any of its Subsidiaries has engaged in questionable accounting or auditing practices.

Section 3.7. *Broker's Fees.* Neither the Company nor any of its Subsidiaries nor any of their respective officers, directors, employees or agents has utilized any broker, finder or financial advisor or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Merger or any other transactions contemplated by this Agreement, other than Keefe, Bruyette & Woods, pursuant to a letter agreement, a true, complete and correct copy of which has been previously delivered or made available to Parent.

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Section 3.8. *Absence of Certain Changes or Events.*

(a) Since December 31, 2009 through and including the date of this Agreement, except as set forth on *Section 3.8(a)* of the Company Disclosure Schedule, no event or events have occurred that have had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on the Company.

(b) Since December 31, 2009 through and including the date of this Agreement, except as set forth on *Section 3.8(b)* of the Company Disclosure Schedule, the Company and its Subsidiaries have carried on their respective businesses in all material respects in the Ordinary Course of Business and none of the Company or any of its Subsidiaries has taken any action that, if taken after the date of this Agreement, would constitute a breach of any of the covenants set forth in *Section 5.1(a)*.

Section 3.9. *Legal Proceedings.*

(a) Except as set forth on *Section 3.9(a)* of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to any, and there are no pending or, to the Company's knowledge, threatened, legal, administrative, arbitral or other proceedings, claims, actions, suits or governmental or regulatory investigations of any nature by or against the Company or any of its Subsidiaries or, to the knowledge of the Company, any of its or its Subsidiaries' employees with respect to its business, or to which any of their assets are subject, the outcome of which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on the Company.

(b) There is no material judgment, settlement agreement, order, injunction, decree or regulatory restriction imposed upon the Company, any of its Subsidiaries or the assets of the Company or any of its Subsidiaries (or that, upon consummation of the Merger, would apply to Parent or any of its Subsidiaries).

Section 3.10. *Taxes and Tax Returns.* Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Company, (i) each of the Company and its Subsidiaries has (a) duly and timely filed (including all applicable extensions) all federal income Tax Returns and other material Tax Returns required to be filed by it on or prior to the date of this Agreement (all such Tax Returns being accurate and complete in all material respects) and (b) has paid all Taxes due and owing by the Company or any of its Subsidiaries (whether or not shown on any Tax Return); (ii) neither the Company nor any of its Subsidiaries currently is the beneficiary of any extension of time in excess of six months within which to file any Tax Return; (iii) federal, state and local income Tax Returns of the Company and its Subsidiaries have been examined by the IRS or other relevant taxing authority, or the statute of limitations for assessment with respect to such Tax Returns has expired, for all years to and including 2004, and any liability with respect thereto has been satisfied or any liability with respect to deficiencies asserted as a result of such examination is covered by reserves that are adequate under GAAP; (iv) to the Company's knowledge, no claim has ever been made by an authority in a jurisdiction where the Company or any of its Subsidiaries does not file Tax Returns that the Company or any of its Subsidiaries is or may be subject to taxation by that jurisdiction; (v) there are no Liens for Taxes (other than Permitted Liens) upon any of the assets of the Company or any of its Subsidiaries; and (vi) each of the Company and its Subsidiaries have withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party. Neither the Company nor any of its Subsidiaries has received from any foreign, federal, state, or local taxing authority (including jurisdictions where the Company or its Subsidiaries have not filed Tax Returns) any (i) written notice indicating an intent to open an audit or other review, (ii) request for information related to Tax matters, or (iii) written notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted, or assessed by any taxing authority against the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency.

Neither the Company nor any of its Subsidiaries (A) has been a member of an affiliated group filing a consolidated federal income Tax Return other than a group of which the Company or any of its Subsidiaries is currently the common Parent or (B) has any material liability for the Taxes of any person other than the Company and its Subsidiaries under Regulation Section 1.1502-6 (or any similar provision of state, local, or foreign Law), as a transferee or successor, by contract, or otherwise. Any material liabilities for Taxes not yet due and payable, or which are being contested in good faith by appropriate proceedings, with respect to the Company and any of its Subsidiaries (X) did not, as of December 31, 2009, exceed by a material amount the reserve for Tax liabilities set forth on the face of the consolidated balance sheet of the Company included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2009 and (Y) do not exceed by a material amount that reserve as adjusted for Tax liabilities incurred in the Ordinary Course of Business. Neither the Company nor any of its Subsidiaries has a permanent establishment outside of the national jurisdiction in which it was formed. There are no material disputes pending, or written claims asserted, for Taxes or assessments upon the Company or any of its Subsidiaries for which the Company does not have reserves that are adequate under GAAP. Neither the Company nor any of its Subsidiaries is a party to or is bound by any Tax sharing agreement or arrangement (other than such an agreement or arrangement exclusively between or among the Company and its Subsidiaries). Within the past two (2) years, neither the Company nor any of its Subsidiaries has been a "distributing corporation" or a "controlled corporation" in a distribution intended to qualify under Section 355(a) of the Code. Neither the Company nor any of its Subsidiaries has participated in a "reportable transaction" within the meaning of Treasury Regulation Section 1.6011-4(b). As of the date of this Agreement, the Company is not aware of any fact or circumstance that could reasonably be expected to prevent the Merger and the Second Step Merger, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

Section 3.11. *Employee Matters.*

(a) *Section 3.11(a)* of the Company Disclosure Schedule sets forth a correct and complete list of each "employee benefit plan" within the meaning of Section 3(3) of ERISA and all other material employee compensation and benefits plans, policies, programs, arrangements or payroll practices, including multiemployer plans within the meaning of Section 3(37) of ERISA, and each other stock purchase, stock option, restricted stock, severance, retention, employment, consulting, change-of-control, collective bargaining, bonus, incentive, deferred compensation, employee loan, fringe benefit and other material benefit plan, agreement, program, policy or other arrangement, whether or not subject to ERISA (including any related funding mechanism now in effect or required in the future), whether oral or written, in each case sponsored, maintained, contributed or required to be contributed to by the Company or its Subsidiaries or under which the Company or any Subsidiary has any current or potential liability. All such plans, agreements, programs, policies and arrangements are collectively referred to as the "*Company Benefit Plans*".

(b) The Company has provided or made available to Parent or its counsel with respect to each Company Benefit Plan a true and complete copy of all plan documents, if any, including related trust agreements, funding arrangements, and insurance contracts and all amendments thereto; and, to the extent applicable, (i) the most recent determination letter, if any, received by the Company or any of its Subsidiaries from the IRS regarding the tax-qualified status of such Company Benefit Plan; (ii) the most recent financial statements for such Company Benefit Plan, if any; (iii) the most recent actuarial valuation report, if any; (iv) the current summary plan description and any summaries of material modifications; and (v) Form 5500 Annual Returns/Reports, including all schedules and attachments, including the certified audit opinions, for the most recent plan year.

(c) No Company Benefit Plan is subject to Title IV or Section 302 of ERISA or Section 412 or 4971 of the Code and no liability under Section 302 or Title IV of ERISA or Section 412 or 4971 of the Code has, within the past six (6) years, been incurred by the Company or any Company ERISA

Affiliate that has not been satisfied in full, and, to the Company's knowledge, no condition exists that presents a material risk of incurring any such liability. No event has occurred and no condition exists that would subject the Company or any of its Subsidiaries by reason of its affiliation with any current or former member of its "controlled group" (within the meaning of Section 414 of the Code) to any (i) material Tax, penalty, fine, (ii) Lien (other than a Permitted Lien) or (iii) other material liability imposed by ERISA, the Code or other applicable Laws.

(d) No Company Benefit Plan is a "multiemployer plan" as defined in Section 3(37) of ERISA, and none of the Company, or any Company ERISA Affiliate has withdrawn at any time within the preceding six (6) years from any multiemployer plan, or incurred any withdrawal liability which remains unsatisfied, and no events have occurred and no circumstances exist that could reasonably be expected to result in any such liability to the Company or any of its Subsidiaries.

(e) With respect to each Company Benefit Plan that is intended to qualify under Section 401(a) of the Code, such plan, and its related trust, has received, has an application pending or remains within the remedial amendment period for obtaining, a determination letter (or opinion letters in the case of any prototype plans) from the IRS that it is so qualified and that its trust is exempt from tax under Section 501(a) of the Code, and nothing has occurred with respect to the operation of any such plan which could reasonably be expected to cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the Code.

(f) There are no pending or, to the knowledge of the Company, threatened actions, claims or lawsuits against or relating to the Company Benefit Plans, the assets of any of the trusts under such plans or the plan sponsor or the plan administrator, or against any fiduciary of the Company Benefit Plans with respect to the operation of such plans (other than routine benefits claims).

(g) Each Company Benefit Plan has been established and administered in all material respects in accordance with its terms, and in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable Laws. All contributions (including all employer contributions and employee salary reduction contributions) required to have been made under any of the Company Benefit Plans to any funds or trusts established thereunder or in connection therewith have been made by the due date thereof and all contributions for any period ending on or before the Closing Date which are not yet due will have been paid or accrued prior to the Closing Date.

(h) Except as set forth on *Section 3.11(h)* of the Company Disclosure Schedule, none of the Company Benefit Plans provide retiree health or life insurance benefits except as may be required by Section 4980B of the Code and Section 601 of ERISA, any other applicable Law or at the expense of the participant or the participant's beneficiary. There has been no violation of the "continuation coverage requirement" of "group health plans" as set forth in Section 4980B of the Code and Part 6 of Subtitle B of Title I of ERISA with respect to any Company Benefit Plan to which such continuation coverage requirements apply.

(i) No stock or other securities issued by the Company or any Affiliate forms or has formed a material part of the assets of any Company Benefit Plan.

(j) Except as set forth in *Section 3.11(j)* of the Company Disclosure Schedule, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in combination with another event) (i) result in any payment becoming due, or increase the amount of any compensation or benefits due, to any current or former employee of the Company and its Subsidiaries or with respect to any Company Benefit Plan; (ii) increase any benefits otherwise payable under any Company Benefit Plan; (iii) result in the acceleration of the time of payment or vesting of any such compensation or benefits; (iv) result in a non-exempt "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code; or (v) result in

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the payment of any amount that would, individually or in combination with any other such payment, not be deductible as a result of Section 280G of the Code.

(k) Each Company Benefit Plan that is or forms a part of a "nonqualified deferred compensation plan" within the meaning of Section 409A(d)(1) of the Code is and has been maintained and operated in compliance in all material respects with Section 409A of the Code and the applicable guidance issued thereunder.

(l) Except as set forth on *Section 3.11(l)* of the Company Disclosure Schedule, each Company Benefit Plan subject to the Laws of any jurisdiction outside of the United States (i) has been maintained in accordance with all applicable requirements, (ii) if they are intended to qualify for special tax treatment, meets all requirements for such treatment, and (iii) if intended to be funded and/or book-reserved, is fully funded and/or book reserved, as appropriate, based upon reasonable actuarial assumptions.

(m) Except as set forth on *Section 3.11(m)* of the Company Disclosure Schedule, no amount has been paid by the Company which would be subject to the provisions of Section 162(m) of the Code such that all or a part of such payments would not be deductible by the payor.

Section 3.12. *Labor Matters.*

(a) Neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement or other labor union contract applicable to employees of the Company or any of its Subsidiaries and, to the knowledge of the Company, there are not any activities and proceedings of any labor union to organize any such employees: (i) there is no unfair labor practice charge or complaint pending before any applicable Governmental Entity relating to the Company, any of its Subsidiaries or any of their respective employees; (ii) there is no labor strike, material slowdown or material work stoppage or lockout pending or, to the knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries, and neither the Company nor any of its Subsidiaries has experienced any strike, material slowdown or material work stoppage, lockout or other collective labor action by or with respect to its employees; (iii) there is no representation claim or petition pending before any applicable Governmental Entity, and to the knowledge of the Company no question concerning representation exists relating to the employees of the Company or any of its Subsidiaries; (iv) there are no charges with respect to or relating to the Company or any of its Subsidiaries currently pending before any applicable Governmental Entity responsible for the prevention of unlawful employment practices; and (v) neither the Company nor any of its Subsidiaries has received notice from any Governmental Entity responsible for the enforcement of labor or employment Laws of an intention to conduct an investigation of the Company or any of its Subsidiaries that has not been settled and no such investigation is in progress.

(b) Each of the Company and its Subsidiaries has been in compliance in all material respects with all applicable Laws relating to employment of labor, including all applicable Laws relating to wages, hours, collective bargaining, employment discrimination, civil rights, safety and health, workers' compensation, pay equity, classification of employees, and the collection and payment of withholding and/or social security Taxes. The Company and each of its Subsidiaries has met in all material respects all applicable Laws or regulations relating to the employment of foreign citizens, including all requirements of I-9, and to the knowledge of the Company, none of the Company or any of its Subsidiaries currently employs, or has ever employed, any Person who was not permitted to work in the jurisdiction in which such Person was employed. The Company and each of its Subsidiaries has complied in all material respects with all Laws that could require overtime to be paid to any current or former employee of the Company and each of its Subsidiaries, and no employee has ever brought or, to the knowledge of the Company, threatened to bring a claim for unpaid compensation or employee benefits, including overtime amounts.

(c) All independent contractors of the Company and each of its Subsidiaries have been, and currently are, properly classified and treated by the Company and each of its Subsidiaries as independent contractors and not as employees. All such independent contractors have in the past been, and continue to be, properly and appropriately treated as non-employees for all federal, state, local and foreign Tax purposes. The Company and each of its Subsidiaries has fully and accurately reported its independent contractors' compensation on IRS Forms 1099 (or otherwise in accordance with applicable Law) when required to do so, and none of the Company or any of its Subsidiaries has any liability to provide benefits with respect to its independent contractors under the Company Benefit Plans or otherwise. At no time has any independent contractor brought a claim against the Company or any of its Subsidiaries challenging his or her status as an independent contractor or made a claim for additional compensation or any benefits under any Company Benefit Plan or otherwise.

(d) *Section 3.12(d)* of the Company Disclosure Schedule sets forth the annual base salary to be paid to each executive officer of the Company and employee of the Company earning more than $350,000 in 2011. There are no guaranteed payments to any employees of the Company or any of its Subsidiaries except as set forth on *Section 3.12(d)* of the Company Disclosure Schedule.

(e) Neither the Company nor any of its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act ("*WARN*") or any similar state or local Law that remains unsatisfied, and neither the Company nor any of its Subsidiaries has planned, announced, or within the prior six (6) months effectuated any "plant closing" or "mass layoff "as contemplated by WARN affecting any site of employment or facility of the Company or any of its Subsidiaries.

Section 3.13. *Certain Contracts.*

(a) *Section 3.13(a)* of the Company Disclosure Schedule sets forth all of the following Contracts in existence to which the Company or its Subsidiaries is a party or by which it is bound as of the date hereof (collectively, the "*Company Contracts*"):

(i) Any Contract that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(ii) Contracts for the sale of any material assets or rights of the Company or its Subsidiaries other than in the Ordinary Course of Business or for the grant to any Person of any preferential rights to purchase any of its assets, in each case, since January 1, 2009, or with obligations remaining to be performed or liabilities continuing after the date of this Agreement;

(iii) Contracts for joint-ventures, strategic alliances or partnerships or other similar entities that are material to the Company and its Subsidiaries taken as a whole;

(iv) Any non-competition, non-solicitation or exclusive dealing agreement, or any other agreement or obligation that purports to limit or restrict in any material respect (A) the ability of the Company, its Subsidiaries or other Affiliates or, following the Closing, Parent or its Affiliates, to solicit customers or employees or (B) the manner in which, or the localities in which, all or any portion of the business of the Company or its Subsidiaries or, following the Closing, Parent or its Affiliates;

(v) Contracts relating to the acquisition by the Company or its Subsidiaries of any operating business, capital stock or assets of any other Person since January 1, 2009, other than for purchases of publicly traded shares of capital stock made in the day-to-day operations of the Company and its Subsidiaries;

(vi) Contracts or instruments relating to the incurrence, assumption or guarantee of any indebtedness or imposing a Lien on any of its material assets other than in the Ordinary Course of Business;

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(vii) Contracts where the Company or any of its Subsidiaries is the lessee or sublessee of, or is granted a similar occupancy interest in, any real property or pursuant to which the Company or any of its Subsidiaries grants to any Person a leasehold or subleasehold, or similar occupancy interest, in any real property;

(viii) Contracts for the provision of goods or services or License Agreements, in each case requiring fees, royalties, payments or other consideration in excess of $50,000 annually or $150,000 in the aggregate over the term of the Contract;

(ix) Contracts that grant any right of first refusal or right of first offer or similar right or that purport to limit the ability of the Company or any of its Subsidiaries to own, operate, sell, transfer, pledge or otherwise dispose of any material assets or business;

(x) Contracts the subject matter of which pertains to the solicitation or referral of customers of the Company or its Subsidiaries that are material to the Company and its Subsidiaries taken as a whole;

(xi) Contracts that obligate the Company or any of its Subsidiaries to cap fees, share fees or other payments, share expenses, waive fees or to reimburse or assume any or all fees or expenses thereunder that would be material to the Company and its Subsidiaries taken as a whole;

(xii) Contracts requiring the Company or any of its Subsidiaries (A) to co-invest with any other Person, (B) to provide seed capital or similar investment, or (C) to invest in any investment product, in each case in an amount in excess of $100,000 individually or $250,000 in the aggregate;

(xiii) any written employment, severance, termination, employee-like consulting or retirement Contract for any employee providing for annual compensation in excess of $250,000 (excluding discretionary bonuses) or with respect to the employment of, severance, retention or payment to, any of its directors and executive officers;

(xiv) any material Contract involving Intellectual Property or relating to the provision of data processing, network communication or other technical services to or by it (other than licenses for commercial "off-the-shelf" or "shrink-wrap" software that has not been modified or customized for the Company or its Subsidiaries);

(xv) any Contract relating to the settlement of any action since December 31, 2007 with (A) the SEC, FINRA, any Governmental Entity or Regulatory Agency (regardless of amount) or (B) any Person (other than a Governmental Entity or SRO) for an amount in excess of $100,000;

(xvi) Contracts that bind or purport to bind, any controlling Affiliates of the Company;

(xvii) any distribution or sub-distribution Contract or Contract for the provision of brokerage services pursuant to which the Company or any of its Subsidiaries paid in excess of $100,000 during the 2010 calendar year;

(xviii) Contracts (or groups of related Contracts) other than Company Benefit Plans that involve the expenditure of more than $100,000 annually or $250,000 in the aggregate which may not be freely terminated by the Company or its applicable Subsidiary upon notice of 90 days or less without penalty or other payment payable by the Company or its applicable Subsidiary;

(xix) "soft dollar" arrangements with any customer that involve the expenditure of more than $50,000 per customer annually or $150,000 per customer in the aggregate;

(xx) Contracts providing for the payment to the Company or any of its Subsidiaries of a retainer or similar fee of more than $50,000 annually or $150,000 in the aggregate;

(xxi) Contracts pursuant to which the Company or any of its Subsidiaries (or any of their predecessor companies) has any ongoing indemnification obligations, retained liabilities or earnouts

that are material to the Company and its Subsidiaries taken as a whole, in each case with respect to the sale of any assets, rights or businesses; and

(xxii) all written amendments, supplements and modifications in respect of the foregoing.

(b) Each Company Contract is valid and binding on the Company or its applicable Subsidiary and the other party thereto, enforceable against it in accordance with its terms (subject to the Bankruptcy and Equity Exception), and is in full force and effect and has not been modified or amended except pursuant to an amendment set forth on *Section 3.13(b)* of the Company Disclosure Schedule. The Company and each of its Subsidiaries, as applicable, and, to the Company's knowledge, each other party thereto has duly performed all material obligations required to be performed by it to date under each Company Contract and no event or condition exists that constitutes or, after notice or lapse of time or both, would constitute, a material breach, violation or default on the part of the Company or any of its Subsidiaries or, to the Company's knowledge, any other party thereto under any such Company Contract. There are no material disputes pending or, to the Company's knowledge, threatened, and no material amounts due or owing remain unpaid, with respect to any Company Contract.

Section 3.14. *Property.* As of the date hereof, none of the Company or any of its Subsidiaries, owns, and has never owned, any real property. All real property leased or subleased or in which another similar occupancy interest is held by the Company or any of its Subsidiaries, as tenant, subtenant or occupant, or which the Company or any of its Subsidiaries have granted, as landlord or sublandlord, a leasehold, subleasehold or other similar interest, is listed in *Section 3.13(a)(vii)* of the Company Disclosure Schedule, and true and correct copies of all leases, subleases and other such agreements (including amendments, modifications and supplements thereto) have been provided or made available to Parent, and the Company and its Subsidiaries, as applicable, have good and valid leasehold title to their respective leased and subleased real property, free and clear of any Liens, subject to Permitted Liens and exceptions that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on the Company.

Section 3.15. *Intellectual Property.*

(a) *Section 3.15(a)* of the Company Disclosure Schedule sets forth a list of all Owned Company IP that is the subject of a registration or pending application with a Governmental Entity. Except as would not reasonably be expected to have a Material Adverse Effect on the Company, (i) the Company and its Subsidiaries collectively own all right, title and interest in all Owned Company IP and have a valid right to use all Licensed Company IP, in each case, free and clear of any Liens and (ii) there are no obligations to, covenants to or restrictions from third parties affecting the Company's or its applicable Subsidiary's use, enforcement, transfer or licensing of the Owned Company IP.

(b) The Owned Company IP and Licensed Company IP constitute all the Intellectual Property necessary and sufficient to conduct the businesses of the Company and its Subsidiaries as they are currently conducted. The consummation of the transactions contemplated hereby will not alter or impair the Company IP in any material respect.

(c) The Owned Company IP that is the subject of a registration with a Governmental Entity is subsisting, enforceable and, to the knowledge of the Company, valid. To the knowledge of the Company, the Licensed Company IP that is the subject of a registration with a Governmental Entity is valid, subsisting and enforceable.

(d) To the knowledge of the Company, neither the Owned Company IP, nor the operation of the businesses of the Company or its Subsidiaries, has infringed, misappropriated or otherwise violated, or is currently infringing, misappropriating or otherwise violating, any Intellectual Property of any third party.

(e) No material Owned Company IP or material Licensed Company IP is being used or enforced by the Company in a manner that would result in the abandonment, cancellation or unenforceability of such Intellectual Property. To the knowledge of the Company, no third party has infringed, misappropriated or otherwise violated any Owned Company IP.

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(f) The Company and its Subsidiaries have taken commercially reasonable steps to maintain the confidentiality of their material trade secrets, and none of such material trade secrets have been disclosed to any third party, except pursuant to written and enforceable confidentiality obligations.

(g) *Section 3.15(g)* of the Company Disclosure Schedule sets forth a correct and complete list of all material software, databases, applications and programs owned or purported to be owned by the Company and its Subsidiaries (the "*Proprietary Software*"). The Company and its Subsidiaries own all right, title and interest in and to all versions of the Proprietary Software. All Proprietary Software was developed by either (x) contractors or consultants of the Company or its Subsidiaries who have executed written agreements assigning all their rights and title in and to the Proprietary Software to the Company or its Subsidiaries or (y) employees of the Company or its Subsidiaries acting within the scope of their employment. The Company maintains the source code for all Proprietary Software in confidence and has not disclosed its source code to any third party. Except as would not reasonably be expected to have a Material Adverse Effect on the Company, none of the Proprietary Software includes any timer, clock, counter, virus or other limiting design, routine or instructions: (i) which have destructive capabilities; (ii) which could cause the Proprietary Software (or any portion thereof) to become erased, inoperable or otherwise incapable of being used in the manner for which it was designed; (iii) which would render any hardware or software inoperable; or (iv) which would cause data to become damaged or removed. To the extent the Company or any of its Subsidiaries use, or the Proprietary Software incorporates, any "open source" or "copyleft" software, or the Company or any of its Subsidiaries are a party to "open" or "public source" or similar licenses, to the knowledge of the Company, the Company and its Subsidiaries are in compliance with the terms of any such licenses, and are not required under any such license to (a) make or permit any disclosure or to make available any source code for the Proprietary Software (or any of its licensors' proprietary software) or (b) distribute or make available any of the Proprietary Software or other Intellectual Property (or to permit any such distribution or availability).

(h) *Section 3.15(h)* of the Company Disclosure Schedule sets forth a correct and complete list of all material trading, valuation or other algorithms owned or purported to be owned by the Company and its Subsidiaries (the "*Proprietary Algorithms*"). The Company and its Subsidiaries own all right, title and interest in and to all versions of the Proprietary Algorithms. All Proprietary Algorithms were developed by either (x) contractors or consultants of the Company or its Subsidiaries who have executed written agreements assigning all their rights and title in and to the Proprietary Algorithms to the Company or its Subsidiaries or (y) employees of the Company or its Subsidiaries acting within the scope of their employment.

Section 3.16. *Insurance.* The Company and its Subsidiaries maintain (or the Company maintains on behalf of its Subsidiaries) such workers' compensation, comprehensive property and casualty, liability, errors and omissions, directors' and officers', fidelity and other insurance as they may be required to maintain under applicable Law. The Company and its Subsidiaries have complied in all material respects with the terms and provisions of such policies and bonds.

Section 3.17. *Compliance with Laws; Permits.*

(a) Each of the Company and its Subsidiaries has been since January 1, 2007 and is in compliance in all material respects with all Laws of any Governmental Entity and the rules and regulations of any Regulatory Agency that are applicable to its respective business, operations, or assets. The Company and each of its Subsidiaries have timely filed all material reports (other than Company SEC Reports, which are covered in *Section 3.5* above), registrations, statements and certifications, together with any amendments required to be made with respect thereto, that they were required to file since January 1, 2007 with Regulatory Agencies and with any applicable Governmental Entity, and all other reports and statements required to be filed by them since January 1, 2007, including any report or statement required to be filed pursuant to the Laws, rules or regulations of any Regulatory Agency or

Governmental Entity, and have paid all fees and assessments due and payable in connection therewith. To the knowledge of the Company, except as set forth in *Section 3.17(a)* of the Company Disclosure Schedule, no Regulatory Agency or Governmental Entity has initiated or resolved since January 1, 2007 and on or prior to the date of this Agreement or has pending as of the date of this Agreement any proceeding, enforcement action or investigation into the business, disclosures or operations of the Company or any of its Subsidiaries, any employee of the Company or any of its Subsidiaries, or any "person associated" (as defined in Section 3(a)(18) of the Exchange Act) with the Company or any of its Subsidiaries. Except for ordinary and usual examinations conducted by a Regulatory Agency or Governmental Entity in the Ordinary Course of Business of the Company and its Subsidiaries that have not resulted or are not reasonably expected to result in a material adverse finding or claim against the Company or any of its Subsidiaries, no Regulatory Agency or Governmental Entity has initiated since the date of this Agreement any material proceeding, enforcement action or, to the knowledge of the Company, material investigation into the business, disclosures or operations of the Company or any of its Subsidiaries, any employee of the Company or any of its Subsidiaries, or any "person associated" (as defined in Section 3(a)(18) of the Exchange Act) with the Company or any of its Subsidiaries. There is no material unresolved, or, to the Company's knowledge, material threatened criticism, comment, exception or stop order by any Regulatory Agency or Governmental Entity with respect to any report or statement relating to any examinations or inspections of the Company or any of its Subsidiaries. To the knowledge of the Company, except as set forth in *Section 3.17(a)* of the Company Disclosure Schedule, since January 1, 2007, there have been no material formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency or Governmental Entity with respect to the business, operations, policies or procedures of the Company or any of its Subsidiaries, any employee of the Company or any of its Subsidiaries, or any "person associated" (as defined in Section 3(a)(18) of the Exchange Act) with the Company or any of its Subsidiaries (other than normal examinations conducted by a Regulatory Agency or Governmental Entity in the Company's Ordinary Course of Business).

(b) Except as set forth in *Section 3.17(b)* of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries is subject to any cease-and-desist or other order or formal or informal enforcement action issued by, or is a party to any material written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any material civil money penalty by, or has been since January 1, 2007 a recipient of any supervisory letter from, or since January 1, 2007 has adopted any policies, procedures or board resolutions at the request or suggestion of, any Regulatory Agency or Governmental Entity that currently restricts or affects in any material respect the conduct of its business (or to the Company's knowledge that, upon consummation of the Merger, would restrict in any material respect the conduct of the business of Parent or any of its Subsidiaries), or that in any material manner relates to its risk management or compliance policies, its internal controls, its management or its business, other than those of general application that apply to similarly situated companies or their Subsidiaries (each item in this sentence, a "*Company Regulatory Agreement*"), nor has the Company or any of its Subsidiaries been advised since January 1, 2007 by any Regulatory Agency or Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Company Regulatory Agreement.

(c) Neither the Company nor any of its Subsidiaries is subject to a "statutory disqualification" as defined in Section 3(a)(39) of the Exchange Act or subject to a disqualification that would be a basis for material limitations on the activities, functions or operations of, or suspension or revocation of the registration of any of the Company's Subsidiaries as a broker-dealer, municipal securities dealer, government securities broker or government securities dealer under Section 15, Section 15B or Section 15C of the Exchange Act, or performing similar functions under the Laws of other jurisdictions, and there is no reasonable basis for, or formal proceeding or written notice of investigation (or, to the Company's knowledge, any informal proceeding or investigation) by any Governmental Entity or

Regulatory Agency, whether preliminary or otherwise, that is reasonably likely to result in, any such limitation, suspension or revocation.

(d) The Company has previously made available to Parent an accurate and complete copy of each Form BD or amendment thereto, statement, or other regulatory report, filed with or furnished to the SEC, FINRA, any Regulatory Agency or other Governmental Entity by the Company or any of its Subsidiaries pursuant to the Securities Act or the Exchange Act, or the rules thereunder or the rules of FINRA and any Governmental entity or Regulatory Agency, on or after January 1, 2007 (the "*Company Regulatory Reports*"). No such Company Regulatory Report, at the time filed or furnished, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading, except that information as of a later date (but prior to the date hereof) shall be deemed to modify information as of an earlier date. As of their respective dates, all Company Regulatory Reports complied as to form in all material respects with the published rules and regulations of the SEC, FINRA, Regulatory Agency or other Governmental Entity or with respect thereto.

(e) *Section 3.17(e)* of the Company Disclosure Schedule contains a list of all Permits which are required for the operation of the business of the Company and its Subsidiaries as presently conducted. Each of the Company and its Subsidiaries currently has all Permits which are required for the operation of its business as presently conducted and as presently intended to be conducted, other than those the failure of which to possess, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on the Company. To the Company's knowledge, (i) none of the Company or any of its Subsidiaries is in default or violation, and no event has occurred which, with notice or the lapse of time or both, would constitute a default or a violation, in any material respect of term, condition or provision of any material Permit to which it is a party, to which its business is subject or by which its properties or assets are bound and (ii) there are no facts or circumstances which would reasonably be expected to form the basis for any such default or violation. Each employee of the Company or any of its Subsidiaries, or each "person associated" (as defined in Section 3(a)(18) of the Exchange Act) with the Company or any of its Subsidiaries, who is required to be registered or licensed as a registered representative, investment advisor representative, sales person or an equivalent person with any Governmental Entity or Regulatory Agency is fully registered or licensed as such and such registration is in full force and effect, and there is no formal proceeding or written notice of investigation (or to the Company's knowledge, no informal proceeding or investigation) by any Governmental Entity or Regulatory Agency, whether preliminary or otherwise, that is reasonably likely to require any additional registration or licensing of such persons.

(f) The Company is not (taking into account any applicable exemption) ineligible under Section 9(a) or 9(b) of the Investment Company Act to serve in a capacity described therein. There is no proceeding or investigation pending and served on the Company or, to the knowledge of the Company, pending and not so served or threatened by any Governmental Entity, which would result in the ineligibility of the Company to serve in any such capacities. Neither the Company nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act.

(g) The Company is not (taking into account any applicable exemption) ineligible under Section 203(f) of the Advisers Act to serve as a "person associated" with an investment adviser. There is no proceeding or investigation pending and served on the Company or, to the knowledge of the Company, pending and not so served or threatened by any Governmental Entity, which would result in the ineligibility under such Section 203(f) of the Company to serve as a "person associated" with an investment adviser.

(h) With respect to the Company and each Subsidiary that acts as a broker or dealer within the meaning of the Exchange Act, (i) such person is not (taking into account any applicable exemption)

ineligible pursuant to Section 15(b)(4) of the Exchange Act to act as a broker or dealer, (ii) no "person associated" (as defined in Section 3(a)(18) of the Exchange Act) with such person is (taking into account any applicable exemption) ineligible under Section 15(b)(6) of the Exchange Act to serve as a "person associated" with a broker or dealer and (iii) there is no proceeding or investigation pending and served on the Company or any of its Subsidiaries or, to the Company's knowledge, pending and not so served or threatened by any Governmental Entity, which would result in (A) the ineligibility under such Section 15(b)(4) of such person to act as a broker or dealer or (B) the ineligibility under such Section 15(b)(6) of such "person associated" with such person to serve as a "person associated" with a broker or dealer.

(i) None of the Company or its Subsidiaries are (i) a commodity pool operator, futures commission merchant, commodity trading advisor, introducing broker, investment adviser, insurance agent, transfer agent, bank or real estate broker within the meaning of any applicable Law; (ii) required to be registered, licensed or qualified as a commodity pool operator, futures commission merchant, commodity trading advisor, introducing broker, investment adviser, bank, insurance agent, transfer agent or real estate broker under any applicable Law; or (iii) subject to any liability or disability by reason of any failure to be so registered, licensed or qualified if required by applicable Law. Neither the Company nor any of its Subsidiaries has received written notice of any proceeding concerning any failure to obtain any commodity pool operator, futures commission merchant, commodity trading advisor, introducing broker, investment adviser, insurance agent, transfer agent, bank or real estate broker registration, license or qualification.

(j) All exchange traded, over-the-counter or other swaps, caps, floors, collars, option agreements, futures and forward contracts and other similar arrangements or Contracts (collectively, "*Derivatives Contracts*"), if any, whether entered into for the Company's own account, or for the account of one or more of its Subsidiaries or their customers, were entered into (i) in the Ordinary Course of Business and comply in all material respects with all applicable Laws and the Company's and, as applicable, its Subsidiaries' existing regulatory authorizations and (ii) with counterparties reasonably believed to be financially responsible at the time; and each of them constitutes the valid and legally binding obligation of the Company or one of its Subsidiaries, enforceable in accordance with its terms (except as enforceability may be limited by the Bankruptcy and Equity Exception), and are in full force and effect. None of the Company or any of its Subsidiaries, or, to the Company's knowledge, any other party thereto, is in breach of any of its material obligations under any such agreement or arrangement.

(k) Each of the Company and its Subsidiaries has complied in all material respects, to the extent such Laws are applicable to them, with (i) U.S. anti-money laundering and anti-terrorism financing Laws and the regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control, and has adequate measures in place to comply with those Laws, (ii) the Foreign Corrupt Practices Act, (iii) the Trading with the Enemy Act and (iv) all comparable provisions of non-U.S. Laws.

(l) To the Company's knowledge, the Company and its Subsidiaries have policies and procedures reasonably designed to achieve compliance with respect to information barriers between departments.

Section 3.18. *Risk Management Instruments.*

(a) All Derivative Transactions, whether entered into for the account of the Company or any of its Subsidiaries or for the account of a customer of the Company or any of its Subsidiaries, were entered into in the Ordinary Course of Business and in accordance, in all material respects, with prudent banking practice and applicable Laws, rules, regulations and policies of any Regulatory Authority and in accordance, in all material respects, with the investment, securities, commodities, risk management and other policies, practices and procedures employed by the Company and its Subsidiaries, and with counterparties believed at the time to be financially responsible and able to

understand (either alone or in consultation with their advisers) and to bear the risks of such Derivative Transactions. All of such Derivative Transactions are valid and binding obligations of the Company or one of its Subsidiaries enforceable against it in accordance with their terms (subject to the Bankruptcy and Equity Exception), and are in full force and effect. The Company and its Subsidiaries and, to the Company's knowledge, all other parties thereto have duly performed their material obligations under the Derivative Transactions to the extent that such obligations to perform have accrued and, to the Company's knowledge, there are no material breaches, violations or defaults or allegations or assertions of such by any party thereunder.

Section 3.19. *Board Approval.* The Board of Directors of the Company, at a meeting duly called and held, by unanimous vote (i) determined that this Agreement and the transactions contemplated hereby, including the Merger, are advisable and fair to, and in the best interests of, the Company and its stockholders, (ii) approved this Agreement, the Company Voting Agreement and the transactions contemplated hereby and thereby, including the Merger, as required to render inapplicable to this Agreement and such transactions the restrictions on "business combinations" set forth in Section 203 of the DGCL or any other "moratorium," "control share," "fair price," "takeover" or "interested stockholder" Law (any such Laws, "*Takeover Statutes*") and (iii) resolved to recommend that the holders of the shares of Company Common Stock approve and adopt this Agreement and the transactions contemplated hereby, including the Merger (the "*Company Recommendation*").

Section 3.20. *Interested Party Transactions.* Except as set forth in the Company SEC Reports or *Section 3.20* of the Company Disclosure Schedule, no event has occurred since January 1, 2009 that would be required to be reported by the Company pursuant to Item 404(a) of Regulation S-K promulgated by the SEC.

Section 3.21. *Opinion.* The Board of Directors of the Company has received the opinion of Keefe, Bruyette & Woods, to the effect that, as of the date hereof, and based upon and subject to the factors and assumptions set forth therein, the Merger Consideration is fair from a financial point of view to the holders of Company Common Stock.

Section 3.22. *Company Information.* The information relating to the Company and its Subsidiaries that is provided by the Company or its representatives for inclusion or incorporation by reference in the Joint Proxy Statement and Form S-4, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading and will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder; provided that, with respect to any projected financial information provided by or on behalf of the Company, the Company represents only that such information was reasonably prepared in good faith by the Company's management on the basis of assumptions believed to be reasonable as of the time made. Notwithstanding the foregoing, no representation or warranty is made by the Company with respect to information or statements made or incorporated by reference in the Form S-4 or Joint Proxy Statement that are provided by Parent or its representatives for inclusion in the Form S-4 or Joint Proxy Statement.

Section 3.23. *Vote Required.* The affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock entitled to vote thereon (the "*Required Company Vote*") is the only vote of the holders of any class or series of the Company's capital stock necessary to approve and adopt this Agreement and the transactions contemplated hereby, including the Merger.

Section 3.24. *No Other Representations or Warranties.* Except for the representations and warranties contained in this Article III, none of the Company, any Subsidiary of the Company or any

other Person on behalf of the Company makes any other express or implied representation or warranty in connection with the transactions contemplated by this Agreement.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Except as disclosed in the Parent SEC Reports filed since November 2, 2009 and prior to the date hereof (but excluding matters disclosed in the sections of such reports entitled "Risk Factors" or "Information Regarding Forward-Looking Statements") or on the Parent Disclosure Schedule, Parent and Merger Sub hereby jointly and severally represent and warrant to the Company as follows:

Section 4.1. *Corporate Organization.*

(a) Each of Parent and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware. Each of Parent and Merger Sub has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, other than in such jurisdictions where the failure to so qualify would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent or Merger Sub, respectively. True, complete and correct copies of the Amended and Restated Certificate of Incorporation of Parent (the "*Parent Charter*"), and the Amended and Restated By-Laws of Parent (the "*Parent By-Laws*"), as in effect as of the date of this Agreement, have previously been made available to the Company.

(b) Each Subsidiary of Parent (i) is duly incorporated or duly formed, as applicable to each such Subsidiary, and validly existing and in good standing under the Laws of its jurisdiction of organization, (ii) has the requisite corporate power and authority or other power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted and (iii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so qualified would not, individually or in the aggregate, have a Material Adverse Effect on Parent.

(c) Merger Sub is a newly formed entity that will not have engaged in any activities prior to the Effective Time, other than those related to the transactions contemplated by this Agreement.

Section 4.2. *Authorization; No Conflict or Violation.*

(a) Each of Parent and Merger Sub has full corporate power and authority to execute and deliver this Agreement and, subject to the receipt of the Required Parent Vote, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly approved by the Board of Directors of each of Parent and Merger Sub. The Board of Directors of Parent has determined that this Agreement is advisable and in the best interests of Parent and its stockholders and has directed that the Parent Stock Issuance be submitted to Parent's stockholders for approval at a duly held meeting of such stockholders and has adopted a resolution to the foregoing effect. Except for the Required Parent Vote, no other corporate proceedings on the part of either Parent or Merger Sub are necessary to approve this Agreement or to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly approved by Parent (being the sole stockholder) of Merger Sub, and no other proceedings on the part of Merger Sub are necessary to authorize the execution and delivery of this Agreement by Merger Sub and the consummation of the transactions contemplated hereby. This

Agreement has been duly and validly executed and delivered by each of Parent and Merger Sub and (assuming, with respect to this Agreement, due authorization, execution and delivery by the Company) constitutes the valid and binding obligations of each of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with its terms (except as may be limited by the Bankruptcy and Equity Exception).

(b) Neither the execution and delivery of this Agreement by either Parent or Merger Sub, nor the consummation by either Parent or Merger Sub of the transactions contemplated hereby, nor compliance by Parent and Merger Sub with any of the terms or provisions of this Agreement, will conflict with, or result in any violation of or default (without notice or lapse of time or both) under, or give rise to a right of termination, cancellation, acceleration of any obligation or to loss of a material benefit under, or give rise to any obligation of Parent or any of its Subsidiaries to make any payment under, or to the increased, additional, accelerated or guarantees rights or entitlements of any Person under, or result in the creation of any Liens upon any of the properties or assets of Parent or its Subsidiaries under, any provisions of (i) the Parent Charter or the Parent By-Laws; (ii) the Certificate of Incorporation of Merger Sub or the By-Laws of Merger Sub; (iii) any Contract or Permit to which Parent or any of its Subsidiaries is a party; (iv) any judgment, order, injunction or decree of any Governmental Entity applicable to Parent or any of its Subsidiaries or any of their respective properties or assets; or (v) any applicable Law, except in the case of clauses (ii), (iii) or (iv) for violations, defaults, terminations, cancellations, accelerations, losses, obligations, rights, entitlements or creations of Liens that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent.

Section 4.3. *Consents and Approvals.* Except for (a) filings of applications and notices with, and receipt of consents, authorizations, approvals, exemptions or nonobjections from, the SEC, non-U.S. and state securities authorities, FINRA and other SROs, (b) the filing of a notification and report form under the HSR Act and the termination or expiration of applicable waiting periods under the HSR Act, (c) the filing with the SEC of the Joint Proxy Statement and of the Form S-4 in which the Joint Proxy Statement will be included as a prospectus, and declaration of effectiveness of the Form S-4, (d) the filing of the Certificate of Merger pursuant to the DGCL, (e) any consents, authorizations, approvals, filings or exemptions in connection with compliance with the listing rules of the NYSE or Nasdaq, (f) such filings and approvals as are required to be made or obtained under the Securities Laws in connection with the issuance of the shares of Parent Common Stock pursuant to this Agreement, (g) such other consents, approvals, filings and registrations the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent and (h) the matters set forth on *Section 4.3* of the Parent Disclosure Schedule, no consents or approval of or filings or registrations with or notice to any Regulatory Agency or Governmental Entity or any other Person are necessary in connection with (i) the execution and delivery by Parent and Merger Sub of this Agreement and (ii) the consummation by Parent and Merger Sub of the transactions contemplated by this Agreement.

Section 4.4. *Capitalization and Related Matters.*

(a) The authorized capital stock of Parent consists of (i) 250,000,000 shares of Parent Common Stock, of which, as of February 15, 2011 (the "*Parent Capitalization Date*"), 75,511,849 shares were issued and outstanding, (ii) 250,000,000 shares of Class B Common Stock, par value $0.01 per share (the "*Parent Class B Common Stock*"), of which, as of the Parent Capitalization Date, no shares were issued and outstanding and (iii) 10,000,000 shares of preferred stock, par value $0.01 per share ("*Parent Preferred Stock*"), of which, as of the Parent Capitalization Date, no shares were issued and outstanding. As of the Parent Capitalization Date, Parent held no shares of Parent Common Stock in its treasury. As of the Parent Capitalization Date, no shares of Parent Common Stock, Parent Class B Common Stock or Parent Preferred Stock were reserved for issuance except for (x) 6,030,684 shares of Parent Common Stock reserved for issuance in connection with existing awards under employee

benefit, stock option and dividend reinvestment and stock purchase plans, (y) 6,426,367 shares of Parent Common Stock reserved for issuance in connection with future awards that have not yet been made under employee benefit, stock option and dividend reinvestment and stock purchase plans and (z) 75,511,849 shares of Parent Class B Common Stock reserved for issuance in connection with future conversion of Parent Common Stock. All of the issued and outstanding shares of Parent Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof and have not been issued in violation of any applicable Law or any Contract of Parent. As of the date of this Agreement, no bonds, debentures, notes or other indebtedness having the right to vote on any matters on which stockholders of Parent may vote ("*Parent Voting Debt*") are issued or outstanding. As of the date of this Agreement, except pursuant to this Agreement and other than as set forth in *Section 4.4(a)* of the Parent Disclosure Schedule, Parent does not have and is not bound by any outstanding subscriptions, options, warrants, calls, rights, commitments or agreements of any character calling for the purchase or issuance of, or the payment of any amount based on, any shares of Parent Common Stock, Parent Class B Common Stock, Parent Preferred Stock, Parent Voting Debt or any other equity securities of Parent or any securities representing the right to purchase or otherwise receive any shares of Parent Common Stock, Parent Class B Common Stock, Parent Preferred Stock, Parent Voting Debt or other equity securities of Parent. As of the date of this Agreement, except pursuant to this Agreement or pursuant to the Parent Stock Plans, and other than as set forth in *Section 4.4 (a)* of the Parent Disclosure Schedule, there are no contractual obligations of Parent or any of its Subsidiaries (i) to repurchase, redeem or otherwise acquire any shares of capital stock of Parent or any equity security of Parent or its Subsidiaries or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of Parent or its Subsidiaries or (ii) pursuant to which Parent or any of its Subsidiaries is or could be required to register shares of capital stock or other securities of Parent under the Securities Act.

(b) Parent has provided the Company with a true, complete and correct list of the aggregate number of Parent Stock Options granted under any Parent Stock Plan that were outstanding as of the Parent Capitalization Date and the weighted average exercise price for the Parent Stock Options. Parent has provided the Company with a true, complete and correct list of the aggregate number of Parent Restricted Stock granted under any Parent Stock Plan that were outstanding as of the Parent Capitalization Date. Other than the Parent Equity Awards that are outstanding as of the Parent Capitalization Date and except as set forth in *Section 4.4(b)* of the Parent Disclosure Schedule, no other subscriptions, options, warrants, calls, rights, commitments or agreements of character calling for the purchase or issuance of, or the payment of any amount based on, any shares of Parent Common Stock, Parent Preferred Stock, Parent Voting Debt or other equity securities of Parent (other than Parent Class B Common Stock) are outstanding as of the Parent Capitalization Date. Since the Parent Capitalization Date through the date hereof, Parent has not (i) issued or repurchased any shares of Parent Common Stock, Parent Class B Common Stock, Parent Preferred Stock, Parent Voting Debt or other equity securities of Parent, other than the issuance of shares of Parent Common Stock in connection with the exercise or vesting of Parent Equity Awards granted under the Parent Stock Plans that were outstanding on the Parent Capitalization Date or (ii) issued or awarded or committed to issue or award any options, stock appreciation rights, restricted shares, restricted stock units, deferred equity units, awards based on the value of Parent capital stock or any other equity-based awards under any of the Parent Stock Plans.

(c) All grants of Parent Equity Awards and any other grants of stock options or other equity interests were validly issued and properly approved by Parent's Board of Directors (and all required approvals by the stockholders of Parent have been obtained) in accordance with all applicable Law and no such grants involved any "backdating" or similar practices with respect to the effective date of grant. The per share exercise price of each Parent Stock Option was not less than the fair market value of the Parent Common Stock on the applicable grant date (as determined in a manner consistent with

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Treasury Regulation §1.409A-1(b)(5)(iv)) and each such grant was properly accounted for in all material respects in accordance with GAAP in the financial statements (including the related notes) of Parent and disclosed in Parent's filings with the SEC in accordance with the Exchange Act and other applicable securities Laws. No modifications have been made to any Parent Stock Options after the applicable date of grant.

(d) All of the issued and outstanding shares of capital stock or other equity ownership interests of each Subsidiary of Parent are owned by Parent, directly or indirectly, free and clear of any Liens other than Permitted Liens, and all of such shares or equity ownership interests are duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights. No Subsidiary of Parent has or is bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of capital stock or any other equity security of such Subsidiary or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of such Subsidiary. Except as set forth in *Section 4.4(d)* of the Parent Disclosure Schedule, Parent does not have any Subsidiaries and does not own any capital stock or other equity or voting securities or other rights convertible or exchangeable into or exercisable for equity or voting securities, or any other rights, interests or investments, in any other Person.

(e) Parent has no rights plan, "poison-pill" or other similar agreement or arrangement or any anti-takeover provision in the Parent Organizational Documents that is, or at the Effective Time shall be applicable to Parent, Parent Common Stock, Parent Class B Common Stock, Parent Preferred Stock, the Merger or the other transactions contemplated by this Agreement.

Section 4.5. *Parent SEC Reports.* Parent has filed or furnished all forms, documents and reports required to be filed with or furnished to the SEC by Parent or any of its Subsidiaries pursuant to the Securities Act or the Exchange Act on or after November 2, 2009 (the "*Parent SEC Reports*"). No such Parent SEC Report, at the time filed or furnished (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not materially misleading, except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Parent SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of Parent has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

Section 4.6. *Parent Financial Statements.*

(a) The financial statements of Parent and its Subsidiaries included (or incorporated by reference) in the Parent SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are based upon, the books and records of Parent and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders' equity and consolidated financial position of Parent and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount), (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the applicable published rules and regulations of the SEC then in effect with respect thereto, and (iv) have been prepared in accordance with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto.

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(b) Except (i) for those liabilities that are reflected or reserved against on the consolidated balance sheet of Parent included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2009 (including any notes thereto) or (ii) for liabilities incurred in the Ordinary Course of Business since December 31, 2009 or in connection with this Agreement and the transactions contemplated hereby, neither Parent nor any of its Subsidiaries has any material liability or obligation of any nature whatsoever (whether absolute, accrued, contingent, determined, determinable or otherwise and whether due or to become due) that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect on Parent.

(c) Parent (i) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to provide reasonable assurance that material information relating to Parent, including its consolidated Subsidiaries, is made known to the chief executive officer and the chief financial officer of Parent by others within those entities, and (ii) has disclosed, based on its most recent evaluation prior to the date hereof, to Parent's outside auditors and the audit committee of Parent's Board of Directors (A) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect Parent's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal controls over financial reporting. The disclosures pursuant to *Section 4.6(c)(ii)* were made in writing by management to Parent's auditors and audit committee, a copy of which has previously been made available to the Company.

(d) Since December 31, 2009, neither Parent nor any of its Subsidiaries nor, to the knowledge of Parent, any director, officer, employee, auditor, accountant or representative of Parent or any of its Subsidiaries has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim regarding the accounting or auditing practices, procedures, methodologies or methods of Parent or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that Parent or any of its Subsidiaries has engaged in questionable accounting or auditing practices.

Section 4.7. *Broker's Fees*. None of Parent, Merger Sub or any of their Subsidiaries or any of their respective officers, directors, employees or agents has utilized any broker, finder or financial advisor or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Merger or any other transactions contemplated by this Agreement other than Sandler O'Neill & Partners, L.P.

Section 4.8. *Absence of Certain Changes or Events.*

(a) Since December 31, 2009 through and including the date of this Agreement, no event or events have occurred that have had our would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Parent.

(b) Since December 31, 2009 through and including the date of this Agreement, except as set forth on *Section 4.8(b)* of the Parent Disclosure Schedule, Parent and its Subsidiaries have carried on their respective businesses in all material respects in the Ordinary Course of Business.

Section 4.9. *Legal Proceedings.*

(a) Except as set forth on *Section 4.9(a)* of the Parent Disclosure Schedule, neither Parent nor any of its Subsidiaries is a party to any, and there are no pending or, to Parent's knowledge, threatened, legal, administrative, arbitral or other proceedings, claims, actions, suits or governmental or regulatory investigations of any nature by or against Parent or any of its Subsidiaries or, to the knowledge of Parent, any of its or its Subsidiaries' employees with respect to its business, or to which any of their assets are subject, the outcome of which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on Parent.

(b) There is no material judgment, settlement agreement, order, injunction, decree or regulatory restriction imposed upon Parent, any of its Subsidiaries or the assets of Parent or any of its Subsidiaries.

Section 4.10. *Certain Contracts.*

(a) Each Contract to which Parent or any of its Subsidiaries is a party as of the date hereof that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC) (collectively, the "*Parent Contracts*") required to be filed with the SEC by Parent or any of its Subsidiaries has been filed with the SEC by Parent.

(b) Each Parent Contract is valid and binding on Parent or its applicable Subsidiary and the other party thereto, enforceable against it in accordance with its terms (subject to the Bankruptcy and Equity Exception), and is in full force and effect and has not been modified or amended. Parent and each of its Subsidiaries, as applicable, and, to Parent's knowledge, each other party thereto has duly performed all material obligations required to be performed by it to date under each Parent Contract and no event or condition exists that constitutes or, after notice or lapse of time or both, would constitute, a material breach, violation or default on the part of Parent or any of its Subsidiaries or, to Parent's knowledge, any other party thereto under any such Parent Contract. There are no material disputes pending or, to Parent's knowledge, threatened, and no material amounts due or owing remain unpaid, with respect to any Parent Contract.

Section 4.11. *Employee Matters.*

(a) No Parent Benefit Plan is a "multiemployer plan" as defined in Section 3(37) of ERISA, and none of Parent or any Parent ERISA Affiliate has withdrawn at any time within the preceding six (6) years from any multiemployer plan, or incurred any withdrawal liability which remains unsatisfied, and no events have occurred and no circumstances exist that could reasonably be expected to result in any such liability to the Parent or any of its Subsidiaries.

(b) With respect to each Parent Benefit Plan, no liability under Section 302 or Title IV of ERISA or Section 412 or 4971 of the Code has, within the past six (6) years, been incurred by Parent or any Parent ERISA Affiliate that has not been satisfied in full, and, to Parent's knowledge, no condition exists that presents a material risk of incurring any such liability. No event has occurred and no condition exists that would subject Parent or any of its Subsidiaries by reason of its affiliation with any current or former member of its "controlled group" (within the meaning of Section 414 of the Code) to any (i) material Tax, penalty, fine, (ii) Lien (other than a Permitted Lien) or (iii) other material liability imposed by ERISA, the Code or other applicable Laws.

(c) With respect to each Parent Benefit Plan that is intended to qualify under Section 401(a) of the Code, such plan has received, has an application pending or remains within the remedial amendment period for obtaining, a determination letter (or opinion letters in the case of any prototype plans) from the IRS that it is so qualified and that its trust is exempt from tax under Section 501(a) of the Code, and nothing has occurred with respect to the operation of any such plan which could reasonably be expected to cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the Code.

(d) Each Parent Benefit Plan has been established and administered in all material respects in accordance with its terms, and in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable Laws.

(e) Except as would not result in a material liability to Parent, none of the Parent Benefit Plans provide retiree health or life insurance benefits except as may be required by Section 4980B of the Code and Section 601 of ERISA, any other applicable Law or at the expense of the participant or the participant's beneficiary.

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Section 4.12. *Intellectual Property.* The Owned Parent IP and Licensed Parent IP constitute all the Intellectual Property necessary and sufficient to conduct the business of Parent and its Subsidiaries as they are currently conducted. The consummation of the transactions contemplated hereby will not alter or impair the Owned Parent IP in any material respect. To the knowledge of Parent, neither the Owned Parent IP, nor the operation of the businesses of Parent or its Subsidiaries, has infringed, misappropriated or otherwise violated, or is currently infringing, misappropriating or otherwise violating, any Intellectual Property of any third party. To the knowledge of Parent, no third party has infringed, misappropriated or otherwise violated any Owned Parent IP.

Section 4.13. *Insurance.* Parent and its Subsidiaries maintain (or Parent maintains on behalf of its Subsidiaries) such workers' compensation, comprehensive property and casualty, liability, errors and omissions, directors' and officers', fidelity and other insurance as they may be required to maintain under applicable Law. Parent and its Subsidiaries have complied in all material respects with the terms and provisions of such policies and bonds.

Section 4.14. *Compliance with Laws; Permits.*

(a) Each of Parent and its Subsidiaries has been since November 2, 2009 and is in compliance in all material respects with all Laws of any Governmental Entity and the rules and regulations of any Regulatory Agency that are applicable to its respective business, operations, or assets. Parent and each of its Subsidiaries have timely filed all material reports (other than Parent SEC Reports, which are covered in *Section 4.5* above), registrations, statements and certifications, together with any amendments required to be made with respect thereto, that they were required to file since November 2, 2009 with Regulatory Agencies and with each other applicable Governmental Entity, and all other reports and statements required to be filed by them since November 2, 2009, including any report or statement required to be filed pursuant to the Laws, rules or regulations of the United States, any state, any non-U.S. entity, or any Regulatory Agency or other Governmental Entity, and have paid all fees and assessments due and payable in connection therewith. To the knowledge of Parent, except as set forth in *Section 4.14(a)* of the Parent Disclosure Schedule, no Regulatory Agency or other Governmental Entity has initiated since November 2, 2009 and on or prior to the date of this Agreement or has pending as of the date of this Agreement any proceeding, enforcement action or, to the knowledge of Parent, investigation into the business, disclosures or operations of Parent or any of its Subsidiaries. Except for ordinary and usual examinations conducted by a Regulatory Agency or other Governmental Entity in the Ordinary Course of Business of Parent and its Subsidiaries that have not resulted or are not reasonably expected to result in a material adverse finding or claim against Parent or any of its Subsidiaries, no Regulatory Agency or other Governmental Entity has initiated since the date of this Agreement any material proceeding, enforcement action or, to the knowledge of Parent, material investigation into the business, disclosures or operations of Parent or any of its Subsidiaries. Except as set forth in *Section 4.14(a)* of the Parent Disclosure Schedule, since November 2, 2009, no Regulatory Agency or other Governmental Entity has resolved any proceeding, enforcement action or, to the knowledge of Parent, investigation into the business, disclosures or operations of Parent or any of its Subsidiaries. There is no unresolved, or, to Parent's knowledge, threatened material criticism, comment, exception or stop order by any Regulatory Agency or other Governmental Entity with respect to any report or statement relating to any examinations or inspections of Parent or any of its Subsidiaries. To the knowledge of Parent, except as set forth in *Section 4.14(a)* of the Parent Disclosure Schedule, since November 2, 2009, there have been no material formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency or other Governmental Entity with respect to the business, operations, policies or procedures of Parent or any of its Subsidiaries (other than normal examinations conducted by a Regulatory Agency or other Governmental Entity in Parent's Ordinary Course of Business).

(b) Neither Parent nor any of its Subsidiaries is subject to any cease-and-desist or other order, or formal or informal enforcement action issued by, or is a party to any material written agreement,

consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any material civil money penalty by, or has been since November 2, 2009 a recipient of any supervisory letter from, or since November 2, 2009 has adopted any policies, procedures or board resolutions at the request or suggestion of, any Regulatory Agency or other Governmental Entity that currently restricts or affects in any material respect the conduct of its business, or that in any material manner relates to its risk management or compliance policies, its internal controls, its management or its business, other than those of general application that apply to similarly situated companies or their Subsidiaries (each item in this sentence, a "*Parent Regulatory Agreement*"), nor has Parent or any of its Subsidiaries been advised since November 2, 2009 by any Regulatory Agency or other Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Parent Regulatory Agreement.

(c) Each of Parent and its Subsidiaries has complied in all material respects, to the extent such Laws are applicable to them, with (i) U.S. anti-money laundering and anti-terrorism financing Laws and the regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control, and has adequate measures in place to comply with those Laws, (ii) the Foreign Corrupt Practices Act, (iii) the Trading with the Enemy Act and (iv) all comparable provisions of non-U.S. Laws.

Section 4.15. *Taxes and Tax Returns.* Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Parent or any of its Subsidiaries, (i) each of the Parent and its Subsidiaries has (a) duly and timely filed (including all applicable extensions) all federal income Tax Returns and other material Tax Returns required to be filed by it on or prior to the date of this Agreement (all such Tax Returns being accurate and complete in all material respects) and (b) has paid all Taxes due and owing by the Parent or any of its Subsidiaries (whether or not shown on any Tax Return), and (ii) each of the Parent and its Subsidiaries have withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party. Any material liabilities for Taxes not yet due and payable, or which are being contested in good faith by appropriate proceedings, with respect to the Parent and any of its Subsidiaries did not, as of December 31, 2009, exceed by a material amount the reserve for Tax liabilities set forth on the face of the consolidated balance sheet of the Parent included in its Annual Report on Form 10-K for the fiscal year ended December 31, 2009. As of the date of this Agreement, Parent is not aware of any fact or circumstance that could reasonably be expected to prevent the Merger and the Second Step Merger, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

Section 4.16. *Board Approval.* The Board of Directors of Parent, at a meeting duly called and held, by unanimous vote (i) determined that this Agreement and the transactions contemplated hereby, including the Merger and the issuance of additional shares of Parent Common Stock, are advisable and fair to, and in the best interests of, Parent and its stockholders, (ii) approved this Agreement and the Parent Voting Agreement and the transactions contemplated hereby and thereby, including the Merger and Parent Stock Issuance and (iii) resolved to recommend that the holders of the shares of Parent Common Stock approve the Parent Stock Issuance (the "*Parent Recommendation*").

Section 4.17. *Interested Party Transactions.* To the knowledge of Parent, except as set forth in the Parent SEC Reports, no event has occurred since January 1, 2009 that would be required to be reported by Parent pursuant to Item 404(a) of Regulation S-K promulgated by the SEC.

Section 4.18. *Opinion.* The Board of Directors of Parent has received the opinion of Sandler O'Neill & Partners, L.P., to the effect that, as of the date hereof, and based upon and subject to the factors and assumptions set forth therein, the Merger Consideration is fair from a financial point of view to Parent.

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Section 4.19. *Parent Information.* The information relating to Parent and its Subsidiaries that is provided by Parent or its representatives for inclusion or incorporation by reference in the Joint Proxy Statement and Form S-4, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading and will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder; provided that, with respect to any projected financial information provided by or on behalf of Parent, Parent represents only that such information was reasonably prepared in good faith by Parent's management on the basis of assumptions believed to be reasonable as of the time made. Notwithstanding the foregoing, no representation or warranty is made by Parent with respect to information or statements made or incorporated by reference in the Form S-4 or Joint Proxy Statement that are provided by the Company or its representatives for inclusion in the Form S-4 or Joint Proxy Statement.

Section 4.20. *Vote Required.* The affirmative vote of the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote thereon at the Parent Stockholders Meeting voting to approve the Parent Stock Issuance (the "*Required Parent Vote*") is the only vote of the holders of any class or series of Parent's capital stock necessary to approve the transactions contemplated by this Agreement.

Section 4.21. *Parent Funds.*

(a) Except (x) as disclosed in *Section 4.21(a)* of the Parent Disclosure Schedule or (y) as would not reasonably be expected to have a Material Adverse Effect on Parent:

(i) each of Parent and its Subsidiaries complies and has complied with all Advisory Agreements relating to the Parent Funds and all Parent Fund documentation to which it is or has been a party or which relates or has related to it and has no outstanding liability in respect of any failure to comply with any such Advisory Agreement or Parent Fund documentation;

(ii) each Parent Fund that is operated, managed, marketed or distributed by Parent or any of its Subsidiaries is and has been operated, managed, marketed or distributed in accordance with the terms of appointment of Parent or its Subsidiary, the relevant Parent Fund documentation and with all applicable Laws, including the Laws of the jurisdiction in which the Parent Fund is marketed and all applicable anti-money laundering Laws;

(iii) there are no pending, and to Parent's knowledge, threatened, material legal, administrative, arbitral or other proceedings, claims, actions, suits or governmental or regulatory investigations of any nature by or against the Parent Funds, or, to Parent's knowledge, any of its employees with respect to the Parent Funds or to which any of their assets are subject; and

(iv) none of the Parent Funds is registered as, or is required to be registered as, an investment company under the Investment Company Act.

(b) Each Parent Fund is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and has the requisite corporate, limited company, trust or partnership power and authority to own its properties and to carry on its business as is now conducted, and is qualified to do business in each jurisdiction where it is required to do so under applicable Law, except where the failure to have such power, authority or qualification would not reasonably be expected to have a Material Adverse Effect on Parent.

(c) Except as would not reasonably be expected to have a Material Adverse Effect on Parent, as of the date hereof, the consummation of the Merger is not a basis for termination of any Advisory Agreements to which Parent, its Subsidiaries or the Parent Funds are party.

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(d) Since the Parent Capitalization Date and through the date of this Agreement, the net redemptions and withdrawals of funds by Clients (or notices from Clients indicating a clear and unequivocal intention to redeem or withdraw funds (whether present or future) would not reasonably be expected to have a Material Adverse Effect on Parent.

Section 4.22. *No Other Representations or Warranties.* Except for the representations and warranties contained in this Article IV, none of Parent, any Subsidiary of Parent or any other Person on behalf of Parent makes any other express or implied representation or warranty in connection with the transactions contemplated by this Agreement.

ARTICLE V.

COVENANTS OF THE COMPANY

The Company hereby covenants as follows:

Section 5.1. *Conduct of Business Before the Closing Date.*

(a) The Company covenants and agrees that, during the period from the date hereof to the earlier of the termination of this Agreement in accordance with its terms and the Effective Time (except as otherwise specifically contemplated by the terms of this Agreement or as set forth on *Section 5.1(a)* of the Company Disclosure Schedule), unless Parent shall otherwise consent in writing: (i) the businesses of the Company and its Subsidiaries shall be conducted, in all material respects, in the Ordinary Course of Business and, in all material respects, in compliance with applicable Laws, including the HSR Act and the timely filing of all reports, forms or other documents with the SEC required pursuant to the Securities Act, the Exchange Act or the Sarbanes-Oxley Act; (ii) the Company shall and shall cause its Subsidiaries to continue to maintain, in all material respects, its assets, properties, rights and operations in accordance with present practice in a condition suitable for their current use; and (iii) the Company shall use its commercially reasonable efforts consistent with the foregoing to preserve substantially intact the business organization of the Company and its Subsidiaries, and to preserve, in all material respects, the present relationships of the Company and its Subsidiaries with persons with which the Company or any of its Subsidiaries has significant business relations. Without limiting the generality of the foregoing, neither the Company nor any of its Subsidiaries shall (except as specifically contemplated by the terms of this Agreement), between the date of this Agreement and the earlier of the termination of this Agreement in accordance with its terms and the Effective Time, directly or indirectly do, any of the following without the prior written consent of Parent:

(i) make any material change in the conduct of its businesses or enter into any transaction other than in the Ordinary Course of Business;

(ii) make any change in any of its organizational documents; issue any additional shares of capital stock (other than upon the exercise of Company Options outstanding on the date hereof), membership interests or partnership interests or other equity securities or grant any option, warrant or right to acquire any capital stock, membership interests or partnership interests or other equity securities or issue any security convertible into or exchangeable for such securities or alter in any way any its outstanding securities or make any change in outstanding shares of capital stock, membership interests or partnership interests or other ownership interests or its capitalization, whether by reason of a reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, stock dividend or otherwise;

(iii) amend any of its organizational documents or otherwise take any action to exempt any Person (other than it or its Subsidiaries) or any action taken by any Person or entity from any Takeover Statute or similarly restrictive provisions of its organizational documents or terminate,

amend or waive any provisions of any confidentiality or standstill agreements in place with any third parties;

(iv) except as set forth on Schedule 5.1(a)(iv) make any sale, assignment, transfer, abandonment, sublease, assignment or other conveyance of its material assets or rights or any part thereof, other than in the Ordinary Course of Business;

(v) subject any of its material assets, properties or rights or any part thereof, to any Lien or suffer such to exist other than Permitted Liens;

(vi) redeem, retire, purchase or otherwise acquire, directly or indirectly, any shares of the capital stock, membership interests or partnership interests or other ownership interests of the Company and its Subsidiaries or declare, set aside or pay any dividends or other distribution in respect of such shares or interests;

(vii) acquire, lease or sublease any material assets or properties (including any real property), other than in the Ordinary Course of Business;

(viii) except as set forth on Schedules 5.1(a)(viii), (A) increase the compensation or benefits payable or to become payable to the directors, officers, consultants or employees of the Company or any of its Subsidiaries, (B) establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, employment, termination, severance, stock incentive or other plan, agreement, trust, fund, policy or arrangement for the benefit of any director, officer, consultant or employee, except as contemplated by this Agreement or to the extent required by applicable Law, (C) increase the benefits payable under any existing severance or termination pay policies or employment or other agreements, (D) take any affirmative action to accelerate the vesting of any stock-based compensation, (E) grant any awards under any bonus, incentive, performance or other compensation plan or arrangement or Company Benefit Plan (including the grant of stock options, stock appreciation rights, stock-based or stock-related awards, performance units or restricted stock, or the removal of existing restrictions in any Company Benefit Plan or agreements or awards made thereunder), other than any grants required to be made under any Company Benefit Plan as of the date hereof, (F) take any action to fund or in any other way secure the payment of compensation or benefits under any Company Benefit Plan, (G) make any material determinations not in the Ordinary Course of Business under any Company Benefit Plan, (H) grant or promise any tax offset payment award under any Company Benefit Plan, (I) make any loan or cash advance to, or engage in any transaction with, any current or former director, officer, employee, consultant or independent contractor, (J) hire any key officers, consultants or employees or (K) terminate the employment of any officer, consultant or employee to the extent that such termination would result in any liability to the Company or the Surviving Company in excess of $50,000;

(ix) except as set forth on Schedule 5.1(a)(ix) or in the Ordinary Course of Business, (A) enter into any agreement, contract or commitment which requires the Company or its Subsidiaries to spend in excess of $50,000 (or purchase goods and/or services with a value in excess of $50,000) over the term of such agreement, contract or commitment or (B) contractually commit in any given month to make capital expenditures after the date hereof in excess of $250,000 in the aggregate;

(x) pay, lend or advance any amount to, or sell, transfer or lease any properties or assets to, or enter into any agreement or arrangement with, any of its Affiliates (other than wholly owned Subsidiaries);

(xi) fail to keep in full force and effect insurance comparable in amount and scope to coverage maintained;

(xii) make any material change in any method of accounting or accounting principle, method, estimate or practice except for any such change required by reason of a concurrent change in GAAP or required by applicable Law or Regulation S-X under the Securities Act, or write off as uncollectible any material accounts receivable except in the Ordinary Course of Business;

(xiii) make or change any material Tax election, change an annual accounting period, adopt or change any material accounting method, file any material amended Tax Return, enter into any closing agreement, settle any material Tax claim or assessment relating to the Company or any of its Subsidiaries, surrender any right to claim a material refund of Taxes or consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company or any of its Subsidiaries except in the Ordinary Course of Business;

(xiv) settle, release or forgive any material claim, litigation or regulatory proceeding or waive any right thereto other than with respect to disputes with customers and vendors in the Ordinary Course of Business;

(xv) lend money to any Person, or incur or guarantee any indebtedness for borrowed money (other than letters of credit in the Ordinary Course of Business) or enter into any material capital lease obligation; or

(xvi) commit to do any of the foregoing.

(b) Nothing contained in this Agreement shall give to Parent or Merger Sub, directly or indirectly, rights to control or direct the operations of the Company or its Subsidiaries prior to the Closing Date. Prior to the Closing Date, the Company and its Subsidiaries shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its and its Subsidiaries' operations.

Section 5.2. *Notice of Breach.* From and after the date hereof and until the earlier to occur of the Closing Date or the termination of this Agreement pursuant to *Article IX* hereof, the Company shall promptly give written notice with particularity upon having knowledge of any matter that may constitute a breach by the Company of any representation, warranty, agreement or covenant contained in this Agreement.

ARTICLE VI.

COVENANTS OF PARENT AND MERGER SUB

Parent hereby covenants as follows:

Section 6.1. *Conduct of the Business Before the Closing Date.*

(a) Parent covenants and agrees that, during the period from the date hereof to the earlier of the termination of this Agreement in accordance with its terms and the Effective Time (except as otherwise specifically contemplated or permitted by the terms of this Agreement or as set forth on *Section 6.1(a)* of the Parent Disclosure Schedule), unless the Company shall otherwise consent in writing, the businesses of Parent and its Subsidiaries shall be conducted, in all material respects, in the Ordinary Course of Business and, in all material respects, in compliance with applicable Laws, including the HSR Act and the timely filing of all reports, forms or other documents with the SEC required pursuant to the Securities Act, the Exchange Act or the Sarbanes-Oxley Act. Without limiting the generality of the foregoing, neither Parent nor any of its Subsidiaries shall (except as specifically contemplated by the terms of this Agreement), between the date of this Agreement and the earlier of the termination of this Agreement in accordance with its terms and the Effective Time, directly or indirectly do, any of the following without the prior written consent of the Company:

(i) make any change in any of its organizational documents;

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(ii) other than with respect to any Parent Equity Awards, redeem, retire, purchase or otherwise acquire, directly or indirectly, any shares of the capital stock, membership interests or partnership interests or other ownership interests of Parent and its Subsidiaries or declare, set aside or pay any dividends or other distribution in respect of such shares or interests of Parent;

(iii) except in connection with (A) the exercise of Parent Equity Awards or (B) grants of Parent Equity Awards after the date hereof; provided, that Parent shall not increase the number of shares issuable pursuant the Parent Stock Plans, (1) issue any additional shares of capital stock, membership interests or partnership interests or other equity securities or grant any option, warrant or right to acquire any capital stock, membership interests or partnership interests or other equity securities or issue any security convertible into or exchangeable for such securities, in excess of, in the aggregate, 7,500,000 shares of Parent capital stock or other equity securities, including any shares of Parent capital stock issuable upon conversion of such equity securities (provided, that (x) any such shares or other equity securities shall not be issued to any Affiliate of Parent and (y) Parent's Board of Directors shall have determined that any such issuance is in the best interests of Parent and its stockholders) or (2) alter in any way any of its outstanding securities or make any change in outstanding shares of capital stock, membership interests or partnership interests or other ownership interests or its capitalization, whether by reason of a reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, stock dividend or otherwise, except as permitted by Clause (A) above;

(iv) directly or indirectly acquire by merging or consolidating with, or by purchasing all of or a controlling equity interest in, or by any other manner, any Person or division, business or equity interest of any Person if such acquisition would reasonably be expected to impair, in any material respect, the ability of the parties to satisfy any of the conditions to the Merger set forth in this Agreement; or

(v) commit to do any of the foregoing.

(b) Nothing contained in this Agreement shall give to the Company, directly or indirectly, rights to control or direct the operations of Parent or its Subsidiaries prior to the Closing Date. Prior to the Closing Date, Parent and its Subsidiaries shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its and its Subsidiaries' operations.

Section 6.2. *Employee Benefits.*

(a) Except as otherwise provided in *Section 6.2 (b)*, Parent agrees that, during the period commencing at the Effective Time and ending on the twelve (12) month anniversary thereof, the employees of the Company and its Subsidiaries who remain in the employment of the Surviving Company, Parent or their respective Affiliates (the "*Affected Employees*") will continue to be provided with (i) base salary or hourly wage rates that, on an individual-by-individual basis, are no less favorable than those provided to such employees immediately prior to the Effective Time, and (ii) employee benefits that are the same as, or substantially comparable in the aggregate to, either (x) the employee benefits provided by the Company and its Subsidiaries to such employees immediately prior to the Effective Time (other than benefits under any stock option or other equity-based plans) or (y) the employee benefits provided by Parent and its Affiliates to similarly situated employees during such twelve (12) month period. Notwithstanding the foregoing, with respect to any Affected Employee whose employment is terminated by Parent or any of its Affiliates without "cause" (other than due to death or disability) during the twelve-month period immediately following the Effective Time, Parent shall provide, or shall cause its Affiliates to provide, severance benefits to such Affected Employees, which shall be determined and payable in accordance with the severance benefits under the policy in effect at the Company immediately prior to the date hereof as set forth on *Section 6.2(a)* of the Company Disclosure Schedule.

(b) Following the Effective Time, Parent shall cause service by the Affected Employees of the Company and its Subsidiaries (and any predecessor entities) to be taken into account for purposes of eligibility to participate, eligibility to commence benefits, determination of benefits, vesting and, solely for purposes of severance and vacation benefits, benefit accruals (except to the extent such treatment would result in duplicative accrual of benefits for the same period of service) under the Parent Benefit Plans in which the Affected Employees participate.

(c) From and after the Effective Time, Parent shall, with respect to the Affected Employees entitled to participate in the Parent Benefit Plans subject to United States Law (the "*U.S. Benefit Plans*"), (i) cause to be waived any pre-existing condition limitations and any waiting period limitations under welfare benefit plans, policies or practices of Parent or its Subsidiaries in which employees of the Company or its Subsidiaries participate to the extent that such Affected Employee participated in the comparable welfare plan of the Company immediately prior to the Closing and (ii) cause to be credited any deductibles, co-payment amounts and out-of-pocket expenses incurred by such employees and their beneficiaries and dependents during the portion of the plan year prior to participation in the U.S. Benefit Plans provided by Parent and its Subsidiaries.

(d) The Company shall terminate any and all Company Benefit Plans intended to qualify under Section 401(a) of the Code, effective not later than the day immediately preceding the Effective Time. The Company shall provide Parent with evidence that such 401(k) plan(s) have been terminated pursuant to resolution of the Board of Directors of the Company (the form and substance of which shall be subject to review and approval by Parent, such approval not to be unreasonably withheld or delayed) not later than the day immediately preceding the Effective Time.

(e) Nothing contained in this Section 6.2, express or implied, is intended to confer upon any employee of the Company and its Subsidiaries any right to continued employment for any period or continued receipt of any specific employee benefit, or shall constitute an amendment to or any other modification of any Company Benefit Plan or Parent Benefit Plan. Further, this Section 6.2 shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this Section 6.2, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 6.2.

Section 6.3. *Indemnification Continuation.*

(a) For purposes of this *Section 6.3*, (i) "Indemnified Person" shall mean any person who is now, or has been at any time prior to the Effective Time, an officer or director of the Company or who was serving at the request of the Company as an officer or director of another corporation, joint venture or other enterprise, and can provide evidence thereof to Parent reasonably acceptable to Parent and (ii) "Proceeding" shall mean any claim, action, suit, proceeding or investigation, whether or not such claim, proceeding or investigation results in a formal civil or criminal litigation or regulatory action.

(b) From and after the Effective Time, Parent and the Surviving Company jointly and severally shall (i) indemnify and hold harmless against any costs or expenses (including attorney's fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any Proceeding, and provide advancement of expenses to, all Indemnified Persons (A) to the fullest extent such persons are indemnified or have the right to advancement of expenses as of the date of this Agreement by the Company pursuant to Company Organizational Documents and indemnification agreements, if any, in existence on the date hereof with any Indemnified Persons and (B) without limitation to clause (A), to the fullest extent permitted by Law and (ii) honor the provisions regarding elimination of liability of directors, indemnification of officers, directors and employees and advancement of expenses contained in the Company Organizational Documents immediately prior to the Effective Time and ensure that the Certificate of Incorporation and By-laws of the Surviving Company shall contain provisions no less favorable with respect to indemnification, advancement of expenses and exculpation of present and former directors, officers, employees and agents of the Company and its Subsidiaries than are presently

set forth in the Company Organizational Documents. Any right of indemnification of an Indemnified Person pursuant to this *Section 6.3(b)* shall not be amended, repealed or otherwise modified at any time in a manner that would adversely affect the rights of such Indemnified Person as provided herein except as required by applicable Law.

(c) Parent shall cause the Surviving Company to, and the Surviving Company shall, maintain in effect for six (6) years from the Effective Time the Company's current directors' and officers' liability insurance policies covering acts or omissions occurring at or prior to the Effective Time with respect to Indemnified Persons ("*D&O Insurance*") (provided that the Surviving Company may substitute therefor policies with reputable carriers of at least the same coverage containing terms and conditions that are no less favorable to the Indemnified Persons); provided, however, that in no event shall the Surviving Company be required to expend pursuant to this *Section 6.3(c)* more than an amount per year equal to 250% of current annual premiums paid by the Company for such insurance. In the event that, but for the proviso to the immediately preceding sentence, the Surviving Company would be required to expend more than 250% of current annual premiums, the Surviving Company shall obtain the maximum amount of such insurance obtainable by payment of annual premiums equal to 250% of current annual premiums. The Company may, with the prior written consent of Parent, prior to the Effective Time purchase a "tail policy" with respect to acts or omissions occurring prior to the Effective Time that were committed by such Indemnified Persons in their capacity as such; provided that in no event shall the cost of such policy exceed the Maximum Amount and, if such a "tail policy" is purchased, Parent and the Surviving Company shall have no further obligations under this *Section 6.3(c)*.

(d) The rights of any Indemnified Person under this *Section 6.3* shall be in addition to any other rights such Indemnified Person may have under the Certificate of Incorporation or By-laws of the Surviving Company or any of its Subsidiaries under the DGCL or otherwise. The provisions of this *Section 6.3* shall survive the consummation of the Merger for a period of six (6) years and are expressly intended to benefit each of the Indemnified Persons and their respective heirs and representatives; provided, however, that in the event that any claim or claims for indemnification set forth in *Section 6.3* are asserted or made within such six (6) year period, all rights to indemnification in respect of any such claim or claims shall continue until disposition of any and all such claims. If Parent and/or Surviving Company, or any of their respective successors or assigns (i) consolidates with or merges into any other Person, or (ii) transfers or conveys all or substantially all of their businesses or assets to any other Person, then, in each such case, to the extent necessary, a proper provision shall be made so that the successors and assigns of Parent and/or Surviving Company, as the case may be, shall assume the obligations of Parent and Surviving Company set forth in this *Section 6.3*.

Section 6.4. *Parent Board of Directors.* Parent agrees to take all action necessary (including increasing the number of directors that constitute Parent's Board of Directors) to elect each of George M.L. LaBranche, IV and Katherine Elizabeth Dietze as a director of Parent effective as of, and subject to the occurrence of, the Effective Time.

Section 6.5. *Notice of Breach.* From and after the date hereof and until the earlier to occur of the Closing Date or the termination of this Agreement pursuant to *Article IX* hereof, Parent shall promptly give written notice with particularity upon having knowledge of any matter that may constitute a breach by Parent of any representation, warranty, agreement or covenant contained in this Agreement.

ARTICLE VII.

ADDITIONAL COVENANTS OF THE PARTIES

Section 7.1. *Preparation of Joint Proxy Statement/Prospectus and Form S-4; Stockholder Meetings.*

(a) As promptly as practicable, and in any event within ten (10) days after the execution of this Agreement, the Company and Parent shall cooperate in preparing and cause to be filed with the SEC the Joint Proxy Statement, and Parent shall prepare, together with the Company, and file with the SEC the Form S-4 or any amendment or supplement thereto. Parent and the Company shall use their reasonable best efforts to cause the Form S-4 to become effective under the Securities Act as soon after such filing as practicable and to keep the Form S-4 effective as long as is necessary to consummate the Merger. The Joint Proxy Statement shall include the recommendation of the Board of Directors of the Company in favor of approval and adoption of this Agreement and the Merger and, with respect to the Board of Directors of Parent, in favor of approval of the issuance of shares of Parent Common Stock in the Merger for purposes of the rules of Nasdaq (the "*Parent Stock Issuance*"), except to the extent the Board of Directors of the Company or Parent, as the case may be, shall have effected a Company Adverse Recommendation Change or a Parent Adverse Recommendation Change, to the extent such action is permitted by *Section 7.5* or *Section 7.6*. Each of the Company and Parent shall use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to its respective stockholders as promptly as practicable after the Form S-4 becomes effective. Each of the Company and Parent shall promptly provide copies, consult with each other and prepare written responses with respect to any written comments received from the SEC with respect to the Joint Proxy Statement and the Form S-4 and advise one another of any oral comments received from the SEC. The Form S-4 and the Joint Proxy Statement shall, at the time of each of the Company Stockholders Meeting and the Parent Stockholders Meeting, comply as to form in all material respects with the Securities Act and the Exchange Act and the rules and regulations promulgated by the SEC thereunder.

(b) Parent and the Company shall make all necessary filings with respect to the Merger and the transactions contemplated thereby under the Securities Act and the Exchange Act and applicable "blue sky" Laws and the rules and regulations thereunder. Each of Parent and the Company will advise the other, promptly after it receives notice thereof, of the time when the Form S-4 has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Parent Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement or the Form S-4 or comments thereon and responses thereto or requests by the SEC for additional information. No amendment or supplement to the Joint Proxy Statement or the Form S-4 shall be filed without the approval of both Parent and the Company, which approval shall not be unreasonably withheld or delayed; provided that, with respect to documents filed by a party which are incorporated by reference in the Joint Proxy Statement or the Form S-4, this right of approval shall apply only with respect to information relating to the other party or its business, financial condition or results of operations. If at any time prior to the Effective Time, any information relating to Parent or the Company, or any of their respective Affiliates, officers or directors, should be discovered by Parent or the Company that should be set forth in an amendment or supplement to the Form S-4 or the Joint Proxy Statement, so that such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other parties hereto and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by Law, disseminated to the stockholders of the Company and Parent.

(c) The Company shall cause the Company Stockholders Meeting to be duly called and held as soon as reasonably practicable after the Form S-4 is declared effective for the purpose of obtaining the

Required Company Vote. Nothing in this *Section 7.1* shall be deemed to prevent the Company or the Board of Directors of the Company from taking any action they are permitted or required to take under, and in compliance with, *Section 7.5*. In connection with such meeting, the Company will (i) subject to *Section 7.5*, use its reasonable best efforts to obtain the Required Company Vote and (ii) otherwise comply with all legal requirements applicable to such meeting. The information supplied or to be supplied by the Company specifically for inclusion or incorporation in the Form S-4 shall not at the time the Form S-4 is declared effective by the SEC contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading. The information supplied or to be supplied by the Company specifically for inclusion in the Joint Proxy Statement, which shall be included in the Form S-4, shall not, on the date(s) the Joint Proxy Statement is first mailed to the stockholders of the Company and the stockholders of Parent, respectively, or at the time of the Company Stockholders Meeting or the Parent Stockholders Meeting, respectively, or at the Effective Time, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(d) Parent shall cause the Parent Stockholders Meeting to be duly called and held as soon as reasonably practicable after the Form S-4 is declared effective for the purpose of obtaining the Required Parent Vote. Nothing in this *Section 7.1* shall be deemed to prevent Parent or the Board of Directors of Parent from taking any action they are permitted or required to take under, and in compliance with, *Section 7.6*. In connection with such meeting, Parent will (i) subject to *Section 7.6*, use its reasonable best efforts to obtain the Required Parent Vote and (ii) otherwise comply with all legal requirements applicable to such meeting. The information supplied or to be supplied by Parent specifically for inclusion or incorporation in the Form S-4 shall not at the time the Form S-4 is declared effective by the SEC contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading. The information supplied or to be supplied by Parent specifically for inclusion in the Joint Proxy Statement, which shall be included in the Form S-4, shall not, on the date(s) the Joint Proxy Statement is first mailed to the stockholders of the Company and the stockholders of Parent, respectively, or at the time of the Company Stockholders Meeting or the Parent Stockholders Meeting, respectively, or at the Effective Time, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 7.2. *Access to Information.*

Upon reasonable notice, the Company shall (and shall cause its Subsidiaries to) afford to Parent and its representatives reasonable access during normal business hours, during the period prior to the Effective Time, to all its officers, employees, properties, offices and other facilities and to all books and records and, during such period, the Company shall (and shall cause its Subsidiaries to) furnish promptly to Parent and its representatives, consistent with its legal obligations, all other information concerning its business, properties and personnel as Parent may reasonably request, including, on a daily basis, all financial and trading records, prime brokerage account statements and risk reports and assessments; provided, however, that the Company may restrict the foregoing access to the extent that, in the Company's reasonable judgment, (i) providing such access would result in the disclosure of any trade secrets of third parties or violate any of its obligations with respect to confidentiality if the Company shall have used all commercially reasonable efforts to obtain the consent of such third party to such access, (ii) any Law or treaty of any Governmental Entity applicable to the Company requires the Company or its Subsidiaries to preclude Parent and its representatives from gaining access to any properties or information or (iii) providing such access would jeopardize the protection of attorney-client privilege. Parent will hold any such information that is non-public in confidence to the extent

required by, and in accordance with, the provisions of that certain Confidentiality Agreement, dated October 28, 2010 (the "*Confidentiality Agreement*"), between the Company and Parent.

Section 7.3. *HSR Act and Regulatory Matters.*

(a) The parties shall cooperate with each other and use their respective reasonable best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, to obtain as promptly as practicable all permits, consents, approvals, clearances and authorizations of all third parties, Governmental Entities and Regulatory Agencies that are necessary or advisable to consummate the transactions contemplated by this Agreement (including the Merger), including the Company Requisite Regulatory Approvals and the Parent Requisite Regulatory Approvals to comply with the terms and conditions of all such permits, consents, approvals, clearances and authorizations of all such third parties, Governmental Entities or Regulatory Agencies. The Company and Parent and their respective counsel shall (i) have the right to review in advance, and, to the extent practicable, each will consult the other on, in each case subject to applicable Laws relating to the confidentiality of information, all the information relating to the Company or Parent, as the case may be, and any of their respective Subsidiaries, that appear in any filing made with, or written materials submitted to, any third party or any Governmental Entity in connection with the transactions contemplated by this Agreement, (ii) promptly inform each other of any oral or written communication (or other correspondence or memoranda) received from, or given to, any Governmental Entity, and (iii) furnish each other with copies of all correspondence, filings and written communications between them or their Subsidiaries or Affiliates, on the one hand, and any Governmental Entity or its respective staff, on the other hand, with respect to this Agreement or the Merger. Except as expressly prohibited by any Governmental Entity, the Company and Parent shall provide the other party and its counsel with reasonable advance notice of and the opportunity to participate in any discussion, telephone call or meeting with any Governmental Entity in respect of any filing, investigation or other inquiry in connection with this Agreement or the Merger, and to participate in the preparation for such discussion, telephone call or meeting. The Company and Parent may, as each deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other under this *Section 7.3(a)* as "Outside Counsel Only Material." Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and will not be disclosed by such outside counsel to employees, officers or directors of the recipient unless express permission is obtained in advance from the disclosing party or its legal counsel. In exercising the foregoing rights, each of the parties shall act reasonably and as promptly as practicable. The parties shall consult with each other with respect to the obtaining of all permits, consents, approvals, clearances and authorizations of all third parties and Governmental Entities necessary or advisable to consummate the transactions contemplated by this Agreement and each party will keep the other apprised of the status of matters relating to completion of the transactions contemplated by this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Parent shall not be required to agree to any terms, conditions or modifications (including having to cease, sell or otherwise dispose of any assets or business or to hold any such assets or business separate) with respect to obtaining any consents, permits, waivers, approvals, authorizations or orders in connection with the Merger or the consummation of the transactions contemplated by this Agreement that would result in, or would reasonably be likely to result in, either individually or in the aggregate, a material adverse effect on the business or operations of Parent and its Subsidiaries, taken as a whole, or the Company and its Subsidiaries, taken as a whole.

(b) Each of the Company and Parent shall furnish to the other all information (including audited and unaudited financial statements and other financial and business information) concerning itself, its Subsidiaries, directors, officers, employees and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Joint Proxy Statement, the Form S-4 or any other statement, filing, notice or application made by or on behalf of the Company, Parent or any of

their respective Subsidiaries to any Governmental Entity in connection with the Merger and the other transactions contemplated by this Agreement, except as may be prohibited by Law.

(c) Each of the Company and Parent shall promptly advise the other upon receiving any communication from any Governmental Entity the consent, approval or clearance of which is required for consummation of the transactions contemplated by this Agreement that causes such party to believe that there is a reasonable likelihood that any Parent Requisite Regulatory Approval or Company Requisite Regulatory Approval, respectively, will not be obtained or that the receipt of any such consent, approval or clearance may be materially delayed.

Section 7.4. *Reorganization.*

(a) The parties intend that the Merger and the Second Step Merger, taken together, qualify as a reorganization within the meaning of Section 368(a) of the Code and will report it as such for federal, state and local income tax purposes. None of the parties will knowingly take any action or fail to take any action, which action or failure to act would cause the Merger and the Second Step Merger, taken together, to fail to qualify as a reorganization within the meaning of Section 368(a) of the Code and the regulations promulgated thereunder.

(b) Each of the Company and Parent shall use its reasonable best efforts to provide, in connection with the Closing and at such other times as may reasonably be requested by counsel, the officers' certificates and to obtain the opinions referred to in *Section 8.2(c)* and *Section 8.3(e)* hereto, respectively.

Section 7.5. *Company Acquisition Proposals.*

(a) Except as permitted by this *Section 7.5*, none of the Company or any of its Subsidiaries shall (whether directly or indirectly through Affiliates, directors, officers, employees, representatives or other intermediaries), nor shall (directly or indirectly) the Company authorize any of its or their Affiliates, officers, directors, representatives or other intermediaries or Subsidiaries to: (i) solicit, initiate, take any action to knowingly facilitate or encourage the submission of inquiries, proposals or offers from any Person (other than Parent) relating to any Company Acquisition Proposal, or agree to or endorse any Company Acquisition Proposal; (ii) enter into any agreement to (x) facilitate or consummate any Company Acquisition Proposal, (y) approve or endorse any Company Acquisition Proposal or (z) in connection with any Company Acquisition Proposal, require it to abandon, terminate or fail to consummate the Merger; (iii) enter into or participate in any discussions or negotiations in connection with any Company Acquisition Proposal or inquiry with respect to any Company Acquisition Proposal, or furnish or provide to any Person any non-public information with respect to its business, properties or assets in connection with any Company Acquisition Proposal or inquiry with respect to any Company Acquisition Proposal; or (iv) agree to resolve or take any of the actions prohibited by clause (i), (ii) or (iii) of this sentence. The Company shall immediately cease, and direct its representatives and other intermediaries to immediately cease, any and all existing activities, discussions or negotiations with any parties conducted heretofore with respect to any of the foregoing. The Company shall promptly inform its representatives of the Company's obligations under this *Section 7.5*. Any violation of this *Section 7.5* by any representative of the Company or its Subsidiaries shall be deemed to be a breach of this *Section 7.5* by the Company. For purposes of this *Section 7.5*, the term "Person" means any person, corporation, entity or "group," as defined in *Section 13(d)* of the Exchange Act, other than, with respect to the Company, Parent or any Subsidiaries of Parent.

"*Company Acquisition Proposal*" means any offer or proposal for a merger, reorganization, recapitalization, consolidation, share exchange, business combination or other similar transaction involving the Company or any of its Subsidiaries or any proposal or offer to acquire, directly or indirectly, securities representing more than 15% of the voting power of the Company or more than

15% of the assets of the Company and its Subsidiaries taken as a whole, other than the Merger contemplated by this Agreement.

(b) Notwithstanding the foregoing, the Board of Directors of the Company, directly or indirectly through representatives or other intermediaries, may, prior to the Company Stockholders Meeting, (i) comply with Rule 14d-9 and Rule 14e-2 promulgated under the Exchange Act with regard to any Company Acquisition Proposal, so long as any such compliance rejects any Company Acquisition Proposal and reaffirms its recommendation of the transactions contemplated by this Agreement and the Merger Agreement, except to the extent such action is permitted by *Section 7.5(c)*, or issue a "stop, look and listen" statement, (ii) engage in negotiations or discussions with any Person (and its representatives and intermediaries) that has made an unsolicited bona fide written Company Acquisition Proposal not resulting from or arising out of a material breach of *Section 7.5(a)*, and/or (iii) furnish to any Person who makes a Company Acquisition Proposal information relating to the Company or any of its Subsidiaries pursuant to a confidentiality agreement with confidentiality provisions that are substantially similar to, and no less favorable to, the Company than those contained in the Confidentiality Agreement and to the extent nonpublic information that has not been made available to Parent is made available to such Person, the Company shall furnish such nonpublic information to Parent prior to the time it is provided to such Person; provided that the Board of Directors of the Company shall be permitted to take an action described in the foregoing clauses (ii) or (iii) if, and only if, prior to taking such particular action, the Board of Directors of the Company has reasonably determined in good faith that such Company Acquisition Proposal constitutes or would reasonably be expected to lead to a Company Superior Proposal.

"*Company Superior Proposal*" means any proposal (on its most recently amended or modified terms, if amended or modified) made by a third party that is not affiliated with the Company to enter into any transaction involving a Company Acquisition Proposal (if consummated) that the Board of Directors of the Company determines in its good faith judgment (after consultation with the Company's outside legal counsel and financial advisor) (i) to be more favorable to the Company's stockholders than this Agreement and the Merger, taking into account all terms and conditions of such transaction (including any break-up fees, expense reimbursement provision and financial terms, the anticipated timing, conditions and prospects for completion of such transaction, including the prospects for obtaining regulatory approvals and financing, and any third party approvals) and (ii) is reasonably likely to be completed, except that the reference to "15%" in the definition of "Company Acquisition Proposal" shall be deemed to be a reference to "50%". Reference to "this Agreement" and "the Merger" in this paragraph shall be deemed to include any proposed alteration of the terms of this Agreement or the Merger that are agreed to by Parent after it receives written notice from the Company pursuant to *Section 7.5(c)* or *(d)* of the existence of, the identity of the Person making, and the terms and conditions of, any Company Acquisition Proposal.

(c) Notwithstanding anything in this *Section 7.5* to the contrary, at any time prior to the receipt of the Required Company Vote, the Company's Board of Directors may withdraw (or amend or modify in a manner adverse to Parent) its approval or recommendation of this Agreement or the Merger (a "*Company Adverse Recommendation Change*") in response to (i) a Company Intervening Event, if and only if, the Company's Board of Directors has determined in good faith, after consultation with its financial advisors and outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties to the Company's stockholders under applicable Law or (ii) subject to compliance with *Section 7.5(e)*, a Company Acquisition Proposal that was unsolicited and that did not otherwise result from or arise out of a breach of *Section 7.5(a)*, if the Company's Board of Directors has determined in good faith, after consultation with its financial advisors and outside legal counsel that such proposal is a Company Superior Proposal, and that the failure to take such action would be inconsistent with its fiduciary duties to the Company's stockholders under applicable Law.

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(d) The Company's Board of Directors shall not cause or authorize the Company or any of its Subsidiaries to enter into any letter of intent, agreement in principle, memorandum of understanding, merger, acquisition, purchase or joint venture agreement or other agreement related to any Company Acquisition Proposal (other than a confidentiality agreement in accordance with *Section 7.5(b)*) (each a "*Company Acquisition Agreement*") and the Company shall not (and shall not permit any of its Subsidiaries to) enter into a Company Acquisition Agreement, unless the Company's Board of Directors has determined in good faith, after consultation with its financial advisors and outside legal counsel, that such Company Acquisition Proposal is a Company Superior Proposal and the Company complies with *Section 7.5(e)* and terminates this Agreement in compliance with *Section 9.1(i)*, including concurrently paying to Parent the Termination Fee as described in *Section 9.1(i)*.

(e) Prior to any Company Adverse Recommendation Change pursuant to *Section 7.5(c)(ii)* or entering into any Company Acquisition Agreement pursuant to *Section 7.5(d)*, the Company shall have given Parent five (5) Business Days' written notice (it being understood and agreed that any amendment to the amount or form of consideration of such Acquisition Proposal shall require a new notice and an additional three (3) Business Day period) advising Parent that the Company's Board of Directors intends to make a Company Adverse Recommendation Change or that the Company intends to enter into a Company Acquisition Agreement, specifying the material terms and conditions of the Company Acquisition Proposal and that the Company shall, during any such period, negotiate in good faith with Parent (to the extent requested by Parent) to make such adjustments to the Merger Consideration and other terms and conditions of this Agreement such that such Company Acquisition Proposal would no longer constitute a Company Superior Proposal.

(f) The Company shall notify Parent promptly (but in any event within 24 hours) after receipt or occurrence of (i) any Company Acquisition Proposal, (ii) any request for nonpublic information with respect to the Company or any of its Subsidiaries, (iii) any inquiry, proposal, discussions or negotiation with respect to any Company Acquisition Proposal, and (iv) the material terms and conditions of any such Company Acquisition Proposal, request for information, inquiry, proposal, discussion or negotiation and the identity of the Person making any such Company Acquisition Proposal, request for information, inquiry or proposal or with whom discussions or negotiations are taking place. In addition, the Company shall promptly (but in any event within 24 hours) after the receipt thereof, provide to Parent copies of any written documentation material to understanding such Company Acquisition Proposal, request for information, inquiry, proposal, discussion or negotiation ("*Other Company Acquisition Documentation*") which is received by the Company from the Person (or from any representatives or agents of such Person) making such Company Acquisition Proposal, request for information, inquiry or proposal or with whom such discussions or negotiations are taking place. The Company shall not, and shall cause each of its Subsidiaries not to, terminate, waive, amend or modify any provision of any existing standstill or confidentiality agreement to which it or any of its Subsidiaries is a party, and the Company shall, and shall cause its Subsidiaries to, enforce the provisions of any such agreement. The Company shall keep Parent reasonably informed of the status and material details (including any amendments or proposed amendments) of any such Company Acquisition Proposal or request for information and keep Parent reasonably informed as to the material details of any information requested of or provided by the Company and as to the material details of all discussions or negotiations with respect to any such Company Acquisition Proposal, request for information, inquiry or proposal and shall provide to Parent within one (1) Business Day after receipt thereof all copies of any additional Other Company Acquisition Documentation received by the Company from the Person (or from any representatives or agents of such Person) making such Company Acquisition Proposal, request for information, inquiry or proposal or with whom such discussions or negotiations are taking place. The Company shall promptly provide to Parent any non-public information concerning the Company provided to any other Person in connection with any Acquisition Proposal that was not previously provided to Parent. The Company shall not take any action to exempt any Person from the

restrictions on "business combinations" contained in any applicable Law (including any Takeover Statute) or otherwise cause such restrictions not to apply.

Section 7.6. *Parent Acquisition Proposals.*

(a) Except as permitted by this *Section 7.6*, none of Parent or any of its Subsidiaries shall (whether directly or indirectly through Affiliates, directors, officers, employees, representatives or other intermediaries), nor shall (directly or indirectly) Parent authorize any of its or their Affiliates, officers, directors, representatives or other intermediaries or Subsidiaries to: (i) solicit, initiate, take any action to knowingly facilitate or encourage the submission of inquiries, proposals or offers from any Person (other than the Company) relating to any Parent Acquisition Proposal, or agree to or endorse any Parent Acquisition Proposal; (ii) enter into any agreement to (x) facilitate or consummate any Parent Acquisition Proposal, (y) approve or endorse any Parent Acquisition Proposal or (z) in connection with any Parent Acquisition Proposal, require it to abandon, terminate or fail to consummate the Merger; (iii) enter into or participate in any discussions or negotiations in connection with any Parent Acquisition Proposal or inquiry with respect to any Parent Acquisition Proposal, or furnish or provide to any Person any non-public information with respect to its business, properties or assets in connection with any Parent Acquisition Proposal or inquiry with respect to any Parent Acquisition Proposal; or (iv) agree to resolve or take any of the actions prohibited by clause (i), (ii) or (iii) of this sentence. Parent shall immediately cease, and direct its representatives and other intermediaries to immediately cease, any and all existing activities, discussions or negotiations with any parties conducted heretofore with respect to any of the foregoing. Parent shall promptly inform its representatives of Parent's obligations under this *Section 7.6*. Any violation of this *Section 7.6* by any representative of Parent or its Subsidiaries shall be deemed to be a breach of this *Section 7.6* by Parent. For purposes of this *Section 7.6*, the term "Person" means any person, corporation, entity or "group," as defined in Section 13(d) of the Exchange Act, other than, with respect to Parent, the Company or any Subsidiaries of the Company.

"*Parent Acquisition Proposal*" means any offer or proposal for a merger, reorganization, recapitalization, consolidation, share exchange, business combination or other similar transaction involving Parent or any of its Subsidiaries or any proposal or offer to acquire, directly or indirectly, securities representing more than 35% of the voting power of Parent or more than 35% of the assets of Parent and its Subsidiaries taken as a whole, other than the Merger contemplated by this Agreement.

(b) Notwithstanding the foregoing, the Board of Directors of Parent, directly or indirectly through representatives or other intermediaries, may, prior to Parent Stockholders Meeting, (i) comply with Rule 14d-9 and Rule 14e-2 promulgated under the Exchange Act with regard to any Parent Acquisition Proposal, so long as any such compliance rejects any Parent Acquisition Proposal and reaffirms its recommendation of the transactions contemplated by this Agreement and the Merger Agreement, except to the extent such action is permitted by *Section 7.6(c)*, or issue a "stop, look and listen" statement, (ii) engage in negotiations or discussions with any Person (and its representatives and intermediaries) that has made an unsolicited bona fide written Parent Acquisition Proposal not resulting from or arising out of a material breach of *Section 7.6(a)*, and/or (iii) furnish to any Person who makes a Parent Acquisition Proposal information relating to Parent or any of its Subsidiaries pursuant to a confidentiality agreement with confidentiality provisions that are substantially similar to, and no less favorable to, Parent than those contained in the Confidentiality Agreement and to the extent nonpublic information that has not been made available to the Company is made available to such Person, Parent shall furnish such nonpublic information to the Company prior to the time it is provided to such Person; provided that the Board of Directors of Parent shall be permitted to take an action described in the foregoing clauses (ii) or (iii) if, and only if, prior to taking such particular action, the Board of Directors of Parent has reasonably determined in good faith that such Parent Acquisition Proposal constitutes or would reasonably be expected to lead to a Parent Superior Proposal.

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"*Parent Superior Proposal*" means any proposal (on its most recently amended or modified terms, if amended or modified) made by a third party that is not affiliated with Parent to enter into any transaction involving a Parent Acquisition Proposal (if consummated) that the Board of Directors of Parent determines in its good faith judgment (after consultation with Parent's outside legal counsel and financial advisor) to be more favorable to Parent's stockholders than this Agreement and the Merger, taking into account all terms and conditions of such transaction (including any break-up fees, expense reimbursement provision and financial terms, the anticipated timing, conditions and prospects for completion of such transaction, including the prospects for obtaining regulatory approvals and financing, and any third party approvals).

(c) Notwithstanding anything in this *Section 7.6* to the contrary, at any time prior to the receipt of the Required Parent Vote, Parent's Board of Directors may withdraw (or amend or modify in a manner adverse to the Company) its approval or recommendation of this Agreement, the Merger or the Parent Stock Issuance (a "*Parent Adverse Recommendation Change*") in response to (i) a Parent Intervening Event, if and only if, Parent's Board of Directors has determined in good faith, after consultation with its financial advisors and outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties to Parent's stockholders under applicable Law or (ii) subject to compliance with *Section 7.6(d)*, a Parent Acquisition Proposal that was unsolicited and that did not otherwise result from or arise out of a breach of *Section 7.6(a)*, if Parent's Board of Directors has determined in good faith, after consultation with its financial advisors and outside legal counsel that such proposal is a Parent Superior Proposal, and that the failure to take such action would be inconsistent with its fiduciary duties to Parent's stockholders under applicable Law.

(d) Prior to any Parent Adverse Recommendation Change pursuant to *Section 7.6(c)(ii)*, Parent shall have given the Company three (3) Business Days' written notice advising the Company that Parent's Board of Directors intends to make a Parent Adverse Recommendation Change, specifying the material terms and conditions of the Parent Acquisition Proposal and that Parent shall, during such three (3) Business Day period, negotiate in good faith with the Company (to the extent recommended by the Company) to make such adjustments to the Merger Consideration and other terms and conditions of this Agreement such that such Parent Acquisition Proposal would no longer constitute a Parent Superior Proposal.

(e) Parent shall notify the Company promptly (but in any event within 24 hours) after receipt or occurrence of (i) any Parent Acquisition Proposal, (ii) any request for nonpublic information with respect to Parent or any of its Subsidiaries, (iii) any inquiry, proposal, discussions or negotiation with respect to any Parent Acquisition Proposal, and (iv) the material terms and conditions of any such Parent Acquisition Proposal, request for information, inquiry, proposal, discussion or negotiation and the identity of the Person making any such Parent Acquisition Proposal, request for information, inquiry or proposal or with whom discussions or negotiations are taking place. In addition, Parent shall promptly (but in any event within 24 hours) after the receipt thereof, provide to the Company copies of any written documentation material to understanding such Parent Acquisition Proposal, request for information, inquiry, proposal, discussion or negotiation ("*Other Parent Acquisition Documentation*") which is received by Parent from the Person (or from any representatives or agents of such Person) making such Parent Acquisition Proposal, request for information, inquiry or proposal or with whom such discussions or negotiations are taking place. Parent shall not, and shall cause each of its Subsidiaries not to, terminate, waive, amend or modify any provision of any existing standstill or confidentiality agreement to which it or any of its Subsidiaries is a party, and Parent shall, and shall cause its Subsidiaries to, enforce the provisions of any such agreement. Parent shall keep the Company reasonably informed of the status and material details (including any amendments or proposed amendments) of any such Parent Acquisition Proposal or request for information and keep the Company reasonably informed as to the material details of any information requested of or provided by Parent and as to the material details of all discussions or negotiations with respect to any such Parent

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Acquisition Proposal, request for information, inquiry or proposal and shall provide to the Company within one (1) Business Day after receipt thereof all copies of any additional Other Parent Acquisition Documentation received by Parent from the Person (or from any representatives or agents of such Person) making such Parent Acquisition Proposal, request for information, inquiry or proposal or with whom such discussions or negotiations are taking place. Parent shall not take any action to exempt any Person from the restrictions on "business combinations" contained in any applicable Law (including any Takeover Statute) or otherwise cause such restrictions not to apply.

Section 7.7. *Calculation of Company Consolidated Tangible Book Equity.* No later than five (5) Business Days prior to the Closing, the Company shall deliver to Parent a statement setting forth its good faith calculation of the Company Consolidated Tangible Book Equity calculated as of the date of delivery of such statement, together with reasonable supporting detail with respect to the Company's calculations. The Company shall consult with Parent regarding the preparation of such statement.

Section 7.8. *Stockholder Litigation.* The Company and Parent shall keep each other informed of, and cooperate with one another in connection with, any stockholder litigation or claim against it and/or its directors or officers relating to the Merger or the other transactions contemplated by this Agreement; provided, however, that no settlement in connection with such stockholder litigation shall be agreed to without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 7.9. *Public Announcements.* Each of the Company, Parent and Merger Sub agrees that no public release or announcement concerning the transactions contemplated hereby shall be issued by any party without the prior written consent of the Company and Parent (which consent shall not be unreasonably withheld, conditioned or delayed), except as such release or announcement may be required by Law or the rules or regulations of any applicable United States securities exchange, in which case the party required to make the release or announcement shall use its commercially reasonable efforts to allow each other party reasonable time to comment on such release or announcement in advance of such issuance, it being understood that the final form and content of any such release or announcement, to the extent so required, shall be at the final discretion of the disclosing party.

Section 7.10. *No Shareholder Rights Plan.* From the date hereof through the earlier of termination of this Agreement and the Effective Time, the Company will not adopt, approve, or agree to adopt, a shareholder rights plan unless such plan expressly does not apply to Parent and its Affiliates and expressly does not apply to any acquisition of shares of Company Common Stock by Parent and its Affiliates.

Section 7.11. *Stock Exchange Listing.* Parent shall use its commercially reasonable efforts to cause the shares of Parent Common Stock to be issued in connection with the Merger to be approved for quotation on Nasdaq, subject to official notice of issuance.

Section 7.12. *Section 16(b) Matters.* Prior to the Effective Time, the Company, Parent and Merger Sub each shall take all such steps as may be required to cause (a) any dispositions of Company Common Stock (including derivative securities with respect to Company Common Stock) resulting from the Merger and the other transactions contemplated by this Agreement, by each individual who will be subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company immediately prior to the Effective Time to be exempt under Rule 16b-3 promulgated under the Exchange Act and (b) any acquisitions of Parent Common Stock (including derivative securities with respect to Parent Common Stock) resulting from the Merger and the other transactions contemplated by this Agreement, by each individual who may become subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to Parent to be exempt under Rule 16b-3 promulgated under the Exchange Act.

ARTICLE VIII.

CONDITIONS PRECEDENT

Section 8.1. *Conditions to Each Party's Obligation to Effect the Merger.* The obligations of the Company, Parent and Merger Sub to effect the Merger are subject to the satisfaction or waiver on or prior to the Closing Date of the following conditions:

(a) *Company Stockholder Approval.* The Company shall have obtained the Required Company Vote in connection with the approval and adoption of this Agreement by the stockholders of the Company.

(b) *Parent Stockholder Approval.* Parent shall have obtained the Required Parent Vote in connection with the approval of the Parent Stock Issuance by the stockholders of Parent.

(c) *No Injunctions or Restraints, Illegality.* No statute, rule, regulation, executive order, decree or ruling shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other U.S. governmental authority of competent jurisdiction shall be in effect as of the Closing Date, having the effect of making the Merger illegal or otherwise prohibiting consummation of the Merger; provided, however, that the provisions of this *Section 8.1(c)* shall not be available to any party whose failure to fulfill its obligations pursuant to *Section 7.3* shall have been the cause of, or shall have resulted in, such order or injunction.

(d) *HSR Act.* The waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have been terminated or shall have expired.

(e) *Nasdaq Listing.* The shares of Parent Common Stock to be issued in the Merger shall have been approved for quotation or listing, as the case may be, on the Nasdaq Global Market System (or any successor inter-dealer quotation system or stock exchange thereto) subject to official notice of issuance.

(f) *Effectiveness of the Form S-4.* The Form S-4 shall have been declared effective by the SEC under the Securities Act. No stop order suspending the effectiveness of the Form S-4 shall have been issued by the SEC and no proceedings for that purpose shall have been initiated or threatened by the SEC.

Section 8.2. *Additional Conditions to Obligations of Parent and Merger Sub.* The obligations of Parent and Merger Sub to effect the Merger are subject to the satisfaction, or waiver by Parent, on or prior to the Closing Date of the following additional conditions:

(a) *Representations and Warranties.* (i) The representations and warranties of the Company contained in *Section 3.4* (Capitalization and Related Matters) (other than the representations and warranties of the Company contained in *Section 3.4(f)*) shall be true and correct in all respects, other than immaterial misstatements or omissions, both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), (ii) the representations and warranties of the Company contained in *Section 3.8(a)* (Absence of Certain Changes or Events) and *Section 3.23* (Vote Required) shall be true and correct in all respects, in each case both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date) and (iii) all other representations and warranties of the Company set forth in this Agreement shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein) does not have, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect

on the Company. Parent shall have received a certificate of the chief executive officer and the chief financial officer of the Company to such effect.

(b) *Performance of Obligations of the Company.* The Company shall have performed in all material respects and complied in all material respects with all agreements and covenants required to be performed or complied with by it under this Agreement at or prior to the Closing Date. Parent shall have received a certificate of the chief executive officer and the chief financial officer of the Company to such effect.

(c) *Tax Opinion.* Parent shall have received from Willkie Farr & Gallagher LLP, counsel to Parent, on the Closing Date, a written opinion dated as of such date in form and substance reasonably satisfactory to Parent, to the effect that, for U.S. federal income tax purposes, the Merger and the Second Step Merger, taken together, will be treated as a reorganization qualifying under Section 368(a) of the Code. In rendering such opinion, counsel to Parent shall be entitled to rely upon representations of officers of Parent and the Company in substantially the forms attached hereto as *Exhibit B* and *Exhibit C*, respectively (allowing for such amendments to the representations as counsel to Parent deems necessary).

(d) *Company Material Adverse Effect.* During the period from the date hereof to the Closing Date, there shall not have been a Material Adverse Effect on the Company.

(e) *Governmental Entity Consents and Approvals.* All approvals set forth on *Section 8.2(e)* of the Parent Disclosure Schedule shall have been obtained and shall remain in full force and effect on the Closing Date and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred as the "*Parent Requisite Regulatory Approvals*").

(f) *Company Financial Conditions.* (i) The Company Consolidated Tangible Book Equity shall be greater than or equal to $193,000,000, (ii) the aggregate value of the assets reflected on the Unaudited Company Balance Sheet shall be less than or equal to four and one-half times the Company's Consolidated Tangible Book Equity and (iii) the aggregate value of the assets reflected on the Unaudited Company Balance Sheet shall be less than or equal to $920,000,000, in each case calculated as of the Business Day immediately prior to the Closing. Parent shall have received a certificate of the chief executive officer and the chief financial officer of the Company to such effect.

Section 8.3. *Additional Conditions to Obligations of the Company.* The obligations of the Company to effect the Merger are subject to the satisfaction, or waiver by the Company, on or prior to the Closing Date of the following additional conditions:

(a) *Representations and Warranties.* (i) The representations and warranties of Parent contained in *Section 4.4* (Capitalization and Related Matters) shall be true and correct in all respects, other than immaterial misstatements or omissions, both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), (ii) the representations and warranties of the Company contained in *Section 4.8(a)* (Absence of Certain Changes or Events) and *Section 4.20* (Vote Required) shall be true and correct in all respects, in each case both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date) and (iii) all other representations and warranties of Parent set forth in this Agreement shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein) does not have, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent. The Company shall have received a certificate of an executive officer of Parent to such effect.

(b) *Performance of Obligations of Parent.* Parent shall have performed in all material respects and complied in all material respects with all agreements and covenants required to be performed or complied with by it under this Agreement at or prior to the Closing Date. The Company shall have received a certificate of an executive officer of Parent to such effect.

(c) *Parent Material Adverse Effect.* During the period from the date hereof to the Closing Date, there shall not have been a Material Adverse Effect on Parent.

(d) *Governmental Entity Consents and Approvals.* All approvals set forth on *Section 8.3 (d)* of the Company Disclosure Schedule, shall have been obtained and shall remain in full force and effect on the Closing Date and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred as the "*Company Requisite Regulatory Approvals*").

(e) *Tax Opinion.* The Company shall have received from Weil, Gotshal & Manges LLP, counsel to the Company, on the Closing Date, a written opinion dated as of such date in form and substance reasonably satisfactory to Parent and the Company, to the effect that, for U.S. federal income tax purposes, the Merger and the Second Step Merger, taken together, will be treated as a reorganization qualifying under Section 368(a) of the Code. In rendering such opinion, counsel to the Company shall be entitled to rely upon representations of officers of Parent and the Company in substantially the forms attached hereto as *Exhibit B* and *Exhibit C*, respectively (allowing for such amendments to the representations as counsel to the Company deems necessary).

ARTICLE IX.

TERMINATION

Section 9.1. *Termination.* This Agreement may be terminated at any time prior to the Effective Time, by action taken or authorized by the Board of Directors of the terminating party or parties, and, except as provided below, whether before or after approval of the matters presented in connection with the Merger by the stockholders of the Company or Parent:

(a) By mutual written consent of Parent and the Company, by action of their respective Boards of Directors;

(b) By either the Company or Parent if the Effective Time shall not have occurred on or before August 31, 2011 (the "*Termination Date*"); provided, however, that the right to terminate this Agreement under this *Section 9.1(b)* shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the primary cause of the failure of the Effective Time to occur on or before the Termination Date and such action or failure to perform constitutes a breach of this Agreement;

(c) By either the Company or Parent if any Governmental Entity shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting or making illegal the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable; provided that the party seeking to terminate this Agreement pursuant to *Section 9.1(c)* shall have used its commercially reasonable efforts to remove such restraint or prohibition as required by this Agreement; and provided, further, that the right to terminate this Agreement pursuant to this *Section 9.1(c)* shall not be available to any party whose breach of any provision of this Agreement results in the imposition of such order, decree or ruling or the failure of such order, decree or ruling to be resisted, resolved or lifted;

(d) By either the Company or Parent if (i) the approval by the stockholders of the Company required for the consummation of the Merger shall not have been obtained by reason of the failure to obtain the Required Company Vote at the Company Stockholders Meeting (or any adjournment or

postponement thereof) or (ii) the approval by the stockholders of Parent required for the Parent Stock Issuance shall not have been obtained by reason of the failure to obtain the Required Parent Vote at the Parent Stockholders Meeting (or any adjournment or postponement thereof);

(e) By Parent (i) if prior to the Company Stockholders Meeting, a Company Adverse Recommendation Change shall have occurred whether or not permitted by *Section 7.5*, (ii) the Company shall fail to call or hold the Company Stockholders Meeting in accordance with *Section 7.1(c)* or (iii) the Company shall have intentionally and materially breached any of its material obligations under *Section 7.5*;

(f) By the Company if (i) prior to the Parent Stockholders Meeting, a Parent Adverse Recommendation Change shall have occurred, (ii) Parent shall fail to call or hold the Parent Stockholders Meeting in accordance with *Section 7.1(d)* or (iii) Parent shall have intentionally and materially breached any of its material obligations under *Section 7.6*;

(g) By the Company if there shall have been a breach of any representation, warranty, covenant or agreement on the part of Parent or Merger Sub contained in this Agreement such that the conditions set forth in Sections 8.3(a) or 8.3(b) would not be satisfied and (i) such breach is not reasonably capable of being cured or (ii) in the case of a breach of a covenant or agreement, if such breach is reasonably capable of being cured, such breach shall not have been cured prior to the earlier of (A) 30 days following notice of such breach and (B) the Termination Date; provided that the Company shall not have the right to terminate this Agreement pursuant to this Section 9.1(g) if the Company is then in material breach of any of its representations, warranties, covenants or agreements contained in this Agreement;

(h) By Parent if there shall have been a breach of any representation, warranty, covenant or agreement on the part of the Company contained in this Agreement such that the conditions set forth in *Sections 8.2(a)* or *8.2(b)* would not be satisfied and (i) such breach is not reasonably capable of being cured or (ii) in the case of a breach of a covenant or agreement, if such breach is reasonably capable of being cured, such breach shall not have been cured prior to the earlier of (A) 30 days following notice of such breach and (B) the Termination Date; provided that Parent shall not have the right to terminate this Agreement pursuant to this *Section 9.1(h)* if Parent or Merger Sub is then in material breach of any of its representations, warranties, covenants or agreements contained in this Agreement; or

(i) By the Company if concurrently it (i) enters into a definitive Company Acquisition Agreement providing for a Company Superior Proposal after complying with the applicable provisions of *Section 7.5* and (ii) pays to Parent the Termination Fee pursuant to the terms of *Section 9.2(h)*.

Section 9.2. *Effect of Termination.*

(a) In the event of termination of this Agreement by either the Company or Parent as provided in *Section 9.1*, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Parent or the Company or their respective officers or directors except with respect to this *Section 9.2* and *Article X;* provided that, except as set forth in the following sentence, termination of this Agreement shall not relieve any party from any liability for any willful breach of any covenant or agreement or willful breach of any representation or warranty in this Agreement occurring prior to termination.

(b) If Parent shall terminate this Agreement pursuant to *Section 9.1(e)(i)* or *Section 9.1(e)(ii)*, then the Company shall pay to Parent, not later than two (2) Business Days following such termination, an amount equal to $6,250,000 (the "*Termination Fee*").

(c) If (i) the Company or Parent shall terminate this Agreement pursuant to *Section 9.1(d)(i)* or (ii) Parent shall terminate this Agreement pursuant to *Section 9.1(h)*, then the Company shall pay to

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Parent the Parent Expenses, within two (2) Business Days after delivery to the Company of written notice of the amount of such Parent Expenses (it being understood that the payment of such Parent Expenses is not an exclusive remedy, but is in addition to any other rights or remedies available to Parent (whether at law or equity)).

(d) If (i) the Company or Parent shall terminate this Agreement pursuant to *Section 9.1(d)(ii)* or (ii) the Company shall terminate this Agreement pursuant to *Section 9.1(g)*, then Parent shall pay to the Company the Company Expenses, within two (2) Business Days after delivery to Parent of written notice of the amount of such Company Expenses (it being understood that the payment of such Company Expenses is not an exclusive remedy, but is in addition to any other rights or remedies available to Parent (whether at law or equity)).

(e) If (i) (x) the Company or Parent shall terminate this Agreement pursuant to *Section 9.1(b)* or *Section 9.1(d)(i)* or (y) Parent shall terminate this Agreement pursuant to *Section 9.1(e)(iii)*, (ii) at or prior to the time of the event giving rise to such termination there shall have been made known or proposed to the Company or otherwise publicly disclosed or announced a Company Acquisition Proposal and (iii) within 12 months following the termination of this Agreement, the Company enters into a definitive agreement with respect to, or consummates, such Company Acquisition Proposal, then the Company shall pay to Parent, not later than two (2) Business Days after the execution of the definitive agreement or consummation of the transaction, as applicable, the Termination Fee minus any Parent Expenses paid pursuant to *Section 9.2(c)*.

(f) If (i) (x) the Company or Parent shall terminate this Agreement pursuant to *Section 9.1(b)* or *Section 9.1(d)(ii)* or (y) the Company shall terminate this Agreement pursuant to *Section 9.1(f)(iii)*, (ii) at or prior to the time of the event giving rise to such termination there shall have been made known or proposed to Parent or otherwise publicly disclosed or announced a Parent Acquisition Proposal and (iii) within 12 months following the termination of this Agreement, Parent enters into a definitive agreement with respect to, or consummates, such Parent Acquisition Proposal, then Parent shall pay to the Company, not later than two (2) Business Days after the execution of the definitive agreement or consummation of the transaction, as applicable, the Termination Fee minus any Company Expenses paid pursuant to *Section 9.2(d)*.

(g) If the Company shall terminate this Agreement pursuant to *Section 9.1(f)(i)* or *Section 9.1(f)(ii)*, then Parent shall pay to the Company, not later than two (2) Business Days following such termination, the Termination Fee.

(h) If the Company shall terminate this Agreement pursuant to *Section 9.1(i)*, then the Company shall pay to Parent the Termination Fee concurrently with such termination.

(i) For purposes of this *Section 9.2*, (i) the term "Company Acquisition Proposal" shall have the meaning assigned to such term in *Section 7.5(a)*, except that the reference to "more than 15%" in the definition of "*Company Acquisition Proposal*" shall be deemed to be a reference to "more than 50%" and (ii) the term "Parent Acquisition Proposal" shall have the meaning assigned to such term in *Section 7.6(a)*, except that the reference to "more than 35%" in the definition of "*Parent Acquisition Proposal*" shall be deemed to be a reference to "more than 50%."

(j) All payments under this *Section 9.2* shall be made by wire transfer of immediately available funds to an account designated by the applicable party.

(k) Each of the parties acknowledges that the agreements contained in this *Section 9.2* are an integral part of the transactions contemplated by this Agreement and are not a penalty, and that, without these agreements, the other party would not enter into this Agreement. If a party fails to pay promptly any fees or expenses due pursuant to this *Section 9.2*, such party will also pay to the other party the other party's reasonable costs and expenses (including legal fees and expenses) in connection with any action, including the filing of any lawsuit or other legal action, taken to collect payment,

together with interest on the amount of the unpaid fees or expenses under this *Section 9.2*, accruing from its due date, at an interest rate per annum equal to two (2) percentage points in excess of the prime commercial lending rate quoted by The Wall Street Journal. Any change in the interest rate hereunder resulting from a change in such prime rate will be effective at the beginning of the date of such change in such prime rate. Under no circumstances shall the Company or Parent be obligated to pay more than one (1) Termination Fee.

ARTICLE X.

MISCELLANEOUS

Section 10.1. *Non-Survival of Representations, Warranties and Agreements.* None of the representations, warranties, covenants and other agreements in this Agreement or in any instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations, warranties, covenants and other agreements, shall survive the Effective Time, except for *Section 6.3* and those other covenants and agreements contained herein and therein that by their terms apply or are to be performed in whole or in part after the Effective Time and this *Article X.*

Section 10.2. *Disclosure Schedules.*

(a) The inclusion of any information in the disclosure schedules accompanying this Agreement will not be deemed an admission or acknowledgment, in and of itself, solely by virtue of the inclusion of such information in such schedules, that such information is required to be listed in such schedules or that such information is material to any party or the conduct of the business of any party.

(b) Any item set forth in the disclosure schedules with respect to a particular representation, warranty or covenant contained in the Agreement will be deemed to be disclosed with respect to all other applicable representations, warranties and covenants contained in the Agreement to the extent any description of facts regarding the event, item or matter is disclosed in such a way as to make reasonably apparent from such description or specified in such disclosure that such item is applicable to such other representations, warranties or covenants whether or not such item is so numbered.

Section 10.3. *Successors and Assigns.* No party hereto shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other parties hereto and any such attempted assignment without such prior written consent shall be void and of no force and effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto.

Section 10.4. *Governing Law; Jurisdiction.* This Agreement shall be governed by and construed, performed and enforced in accordance with the internal laws of the State of Delaware applicable to contracts made and wholly performed within such state, without regard to any applicable conflicts of law principles. The parties hereto agree that any suit, action or proceeding brought by either party to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal or state court located in the State of Delaware. Each of the parties hereto submits to the jurisdiction of any such court in any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of, or in connection with, this Agreement or the transactions contemplated hereby and hereby irrevocably waives the benefit of jurisdiction derived from present or future domicile or otherwise in such action or proceeding. Each party hereto irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

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Section 10.5. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY, IN ANY MATTERS (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 10.6. *Specific Performance.* The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached and that any defense in any action for specific performance that a remedy at law would be adequate is hereby waived. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement exclusively in the state or federal courts within the State of Delaware (in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative, except, in each case, as may be limited by *Section 9.2*). Any requirements for the securing or posting of any bond with such remedy are waived.

Section 10.7. *Expenses.* All fees and expenses incurred in connection with the Merger including all legal, accounting, financial advisory, consulting and all other fees and expenses of third parties incurred by a party in connection with the negotiation and effectuation of the terms and conditions of this Agreement and the transactions contemplated hereby, shall be the obligation of the respective party incurring such fees and expenses, except (a) Parent and the Company shall each bear and pay one-half of the expenses incurred in connection with the filing, printing and mailing of the Form S-4 and Joint Proxy Statement and (b) as provided in *Section 9.2*.

Section 10.8. *Severability; Construction.*

(a) If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(b) The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent arises, this Agreement will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring any party because of the authorship of any provision of this Agreement.

Section 10.9. *Notices.* All notices, requests, demands and other communications in connection with this Agreement shall be in writing and shall be deemed given if (a) delivered personally, on the date of such delivery, (b) upon confirmation of receipt when transmitted via facsimile (but only if followed by transmittal by national overnight courier or by hand for delivery on the next Business Day), (c) on receipt after dispatch by registered or certified mail (return receipt requested), postage prepaid or (d) on the next Business Day if delivered by an national overnight courier (with confirmation), addressed, in each case, as follows:

(a) if to the Company, to:

LaBranche & Co Inc.
33 Whitehall Street
New York, NY 10004

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Attention: Stephen H. Gray
General Counsel
Facsimile: (212) 952-9280

Copy to (such copy not to constitute notice):

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Michael J. Aiello
Facsimile: (212) 310-8007

(b) if to Parent or Merger Sub, to:

Cowen Group, Inc.
599 Lexington Avenue
New York, NY 10022
Attention: Owen S. Littman
General Counsel
Facsimile: (212) 845-7995

Copy to (such copy not to constitute notice):

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019
Attention: David K. Boston
Laura L. Delanoy
Facsimile: (212) 728-8111

Any party may change its address for the purpose of this Section by giving the other party written notice of its new address in the manner set forth above.

Section 10.10. *Interpretation.* When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to an Article or Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." Words defined in the singular have the parallel meaning in the plural and vice versa. Words of one gender shall be construed to apply to each gender and the neutral gender. The term "party" refers to a party to this Agreement and the term "parties" refers to the parties to this Agreement. This Agreement shall not be interpreted or construed to require any person to take any action, or fail to take any action, if to do so would violate any applicable Law. The parties hereto acknowledge that each party hereto has reviewed, and has had an opportunity to have its counsel review, this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party, or any similar rule operating against the drafter of an agreement, shall not be applicable to the construction or interpretation of this Agreement.

Section 10.11. *Amendment.* This Agreement may be amended by the parties hereto, by action taken or authorized by their respective Boards of Directors, at any time before or after approval of the matters presented in connection with the Merger by the stockholders of the Company, but, after any such approval, no amendment shall be made which by Law requires further approval by such stockholders without such further approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

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Section 10.12. *Extension; Waiver.* At any time prior to the Effective Time, the parties hereto, by action taken or authorized by their respective Boards of Directors, may, to the extent legally allowed, (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of those rights.

Section 10.13. *Entire Agreement.* This Agreement and the Confidentiality Agreement contain the entire understanding among the parties hereto with respect to the transactions contemplated hereby and supersede and replace all prior and contemporaneous agreements and understandings, oral or written, with regard to such transactions. All Exhibits and Schedules hereto and any documents and instruments delivered pursuant to any provision hereof are expressly made a part of this Agreement as fully as though completely set forth herein.

Section 10.14. *Parties in Interest.* Except for (i) the rights of the Company stockholders to receive the Merger Consideration following the Effective Time in accordance with the terms of this Agreement (of which the stockholders are the intended beneficiaries following the Effective Time) and (ii) the rights to continued indemnification and insurance pursuant to *Section 6.3* hereof (of which the Persons entitled to indemnification or insurance, as the case may be, are the intended beneficiaries following the Effective Time), nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any Persons other than the parties hereto and their respective successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Persons to the Company or Parent. No provision of this Agreement shall give any third parties any right of subrogation or action over or against the Company or Parent.

Section 10.15. *Section and Paragraph Headings.* The section and paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

Section 10.16. *Counterparts.* This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other party, it being understood that each party need not sign the same counterpart.

Section 10.17. *Definitions.* As used in this Agreement:

"*Advisers Act*" shall mean the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder by the SEC.

"*Advisory Agreement*" shall mean any Contract, including any investment advisory, management and investment management agreement, entered into by Parent or any of its Subsidiaries for the purpose of providing management, investment advisory or investment management services, including any sub-advisory services, to a Person.

"*Affected Employees*" shall have the meaning set forth in *Section 6.2(a)*.

"*Affiliate*" shall mean, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise; provided that, for purposes of this Agreement, none of Unicredit SpA, Bank Austria AG

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or Bayerische Hypo-und Vereinsbank AG nor any of their respective controlled affiliates shall be deemed to be Affiliates of Parent.

"*Agreement*" shall have the meaning set forth in the Preamble hereto.

"*Bankruptcy and Equity Exception*" shall have the meaning set forth in *Section 3.2(a)*.

"*Board of Directors*" shall mean the Board of Directors of any specified Person and any committees thereof.

"*Business Day*" shall mean any day on which banks are not required or authorized to close in the City of New York.

"*CEA*" shall mean the Commodity Exchange Act, as amended, and the rules and regulations promulgated thereunder by the CFTC.

"*CFTC*" shall mean the Commodity Futures Trading Commission.

"*Certificate*" shall have the meaning set forth in *Section 1.8(b)*.

"*Certificate of Merger*" shall have the meaning set forth in *Section 1.3*.

"*Client*" shall mean any Person who is (i) party to an Advisory Agreement pursuant to which Parent or any of its Subsidiaries provides management, investment management or investment advisory services, including any sub-advisory services, to such Person, or (ii) an investor in a Parent Fund.

"*Closing*" shall have the meaning set forth in *Section 1.2*.

"*Closing Date*" shall have the meaning set forth in *Section 1.2*.

"*Code*" shall have the meaning set forth in the Recitals hereto.

"*Company*" shall have the meaning set forth in the Preamble hereto.

"*Company Acquisition Agreement*" shall have the meaning set forth in *Section 7.5(d)*.

"*Company Acquisition Proposal*" shall have the meaning set forth in *Section 7.5(a)*.

"*Company Adverse Recommendation Change*" shall have the meaning set forth in *Section 7.5(c)*.

"*Company Benefit Plans*" shall have the meaning set forth in *Section 3.11(a)*.

"*Company By-Laws*" shall have the meaning set forth in *Section 3.1(a)*.

"*Company Capitalization Date*" shall have the meaning set forth in *Section 3.4(a)*.

"*Company Charter*" shall have the meaning set forth in *Section 3.1(a)*.

"*Company Common Stock*" shall have the meaning set forth in the Recitals hereto.

"*Company Consolidated Tangible Book Equity*" shall mean (i) the equity value of the Company and its Subsidiaries, less (ii) the value of the intangibles of the Company and its Subsidiaries, less (iii) the value of the goodwill of the Company and its Subsidiaries, less (iv) any net deferred Tax assets of the Company or any of its Subsidiaries, in each case on a consolidated basis, consistent with past practice and as reflected on the Unaudited Company Balance Sheet; provided that any costs, fees or expenses incurred by the Company or any of its Subsidiaries in

connection with the settlement of any litigation pending as of the date hereof, which settlement Parent shall have consented to in writing, shall be added to the equity value of the Company and its Subsidiaries in clause (i) to the extent that such settlement has been accrued as a liability on the Unaudited Company Balance Sheet and reduced the equity value of the Company and its Subsidiaries.

"*Company Contracts*" shall have the meaning set forth in *Section 3.13(a)*.

"*Company Disclosure Schedule*" shall mean the disclosure schedule (with specific reference to the Section or subsection of this Agreement to which the information stated in such disclosure relates) delivered by the Company to Parent simultaneously with the execution of this Agreement.

"*Company ERISA Affiliate*" means any trade or business, whether or not incorporated, that together with the Company or any Affiliate of the Company, is, or has within the past six years been, deemed a "single employer" within the meaning of Section 414 of the Code or Section 4001(b) of ERISA.

"*Company Expenses*" shall mean all of the Company's actual and reasonably documented out-of-pocket fees and expenses (including fees and expenses of counsel, accountants and financial advisors) actually incurred by the Company and its respective affiliates on or prior to the termination of this Agreement in connection with the transactions contemplated by this Agreement, which amount shall not be greater than $1,500,000.

"*Company IP*" shall mean all Intellectual Property owned, used, held for use or exploited by the Company or any of its Subsidiaries.

"*Company Intervening Event*" shall mean an event, fact, circumstance, development or occurrence that affects the business, assets or operations of the Company that is unknown to or by (or misunderstood by) the Company's Board of Directors as of the date of this Agreement, which event, fact, circumstance, development or occurrence becomes known to or by (or understood by) the Company's Board of Directors prior to obtaining the Required Company Vote.

"*Company Options*" shall have the meaning set forth in *Section 1.9(a)*.

"*Company Organizational Documents*" shall mean the Company Charter and the Company By-Laws, together with all amendments thereto.

"*Company Preferred Stock*" shall have the meaning set forth in *Section 3.4(a)*.

"*Company Recommendation*" shall have the meaning set forth in *Section 3.19*.

"*Company Regulatory Agreement*" shall have the meaning set forth in *Section 3.17(b)*.

"*Company Regulatory Reports*" shall have the meaning set forth in *Section 3.17(d)*.

"*Company Requisite Regulatory Approval*" shall have the meaning set forth in *Section 8.3(e)*.

"*Company SEC Reports*" shall have the meaning set forth in *Section 3.5*.

"*Company Stock Plans*" mean the Amended and Restated LaBranche & Co Inc. 1999 Equity Incentive Plan and the LaBranche & Co Inc. 2010 Equity Incentive Plan and all award agreements thereunder.

"*Company Stockholders Meeting*" shall mean the Company stockholders meeting to approve and adopt this Agreement and the Merger.

"*Company Superior Proposal*" shall have the meaning set forth in *Section 7.5(b)*.

"*Company Voting Agreement*" shall have the meaning set forth in the Recitals hereto.

"*Company Voting Debt*" shall have the meaning set forth in *Section 3.4(a)*.

"*Confidentiality Agreement*" shall have the meaning set forth in *Section 7.2*.

"*Contract*" shall mean any contract, agreement, indenture, note, bond, loan, instrument, lease, license, commitment or other arrangement or agreement, whether written or oral.

"*D&O Insurance*" shall have the meaning set forth in *Section 6.3(c)*.

"*Derivatives Contracts*" shall have the meaning set forth in *Section 3.17(j)*.

"*Derivative Transactions*" shall mean any swap transaction, option, warrant, forward purchase or sale transaction, futures transaction, cap transaction, floor transaction or collar transaction relating to one or more currencies, commodities, bonds, equity securities, loans, servicing rights, interest rates, prices, values, or other financial or non-financial assets, credit-related events or conditions or any indexes, or any other similar transaction or combination of any of these transactions, including collateralized mortgage obligations or other similar instruments or any debt or equity instruments evidencing or embedding any such types of transactions, and any related credit support, collateral or other similar arrangements related to such transactions; provided that, for the avoidance of doubt, the term "Derivative Transactions" shall not include any Company Option.

"*DGCL*" shall mean the Delaware General Corporation Law.

"*Disregarded Subsidiary*" shall have the meaning set forth in *Section 1.10*.

"*Effective Time*" shall have the meaning set forth in *Section 1.3*.

"*ERISA*" shall mean the Employee Retirement Income Security Act of 1974.

"*Exchange Act*" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder by the SEC.

"*Exchange Agent*" shall have the meaning set forth in *Section 2.1*.

"*Exchange Fund*" shall have the meaning set forth in *Section 2.1*.

"*Exchange Ratio*" shall have the meaning set forth in *Section 1.8(a)*.

"*FINRA*" shall mean the Financial Industry Regulatory Authority.

"*Form S-4*" shall have the meaning set forth in *Section 3.3*.

"*GAAP*" shall have the meaning set forth in *Section 3.6(a)*.

"*Governmental Entity*" shall mean any nation, state, territory, province, county, city or other unit or subdivision thereof or any entity, authority, agency, department, board, commission, instrumentality, court or other judicial body authorized on behalf of any of the foregoing to exercise legislative, judicial, regulatory or administrative functions of or pertaining to government, and any SRO.

"*HSR Act*" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"*Indemnified Person*" shall have the meaning set forth in *Section 6.3(a)*.

"*Intellectual Property*" shall mean all of the following: (i) trademarks and service marks, trade dress, trade names and other indications of origin, applications or registrations in any jurisdiction pertaining to the foregoing and all goodwill associated therewith; (ii) patents and patent applications in any jurisdiction pertaining to the foregoing, including re-issues, continuations, divisions, continuations-in-part, renewals or extensions; (iii) trade secrets, including confidential information and the right in any jurisdiction to limit the use or disclosure thereof; (iv) copyrighted and copyrightable works including copyrights in designs, software, mask works or other works and applications or registrations in any jurisdiction for the foregoing and all moral rights related thereto; (v) database rights; (vi) domain names and applications and registrations pertaining thereto and all intellectual property used in connection with or contained in all versions of the Web sites of the Company and its Subsidiaries; and (vii) all similar proprietary rights including intellectual property rights in any inventions (whether or not patentable), discoveries, improvements, ideas, know-how, formula methodology, processes, technology, and software (including password unprotected interpretive code or

source code, object code, development documentation, programming tools, drawings, specifications and data).

"*Investment Company Act*" shall mean the Investment Company Act of 1940, as amended.

"*IRS*" shall mean the United States Internal Revenue Service.

"*Joint Proxy Statement*" shall have the meaning set forth in *Section 3.3*.

"*knowledge*" or "*known*" shall mean the actual knowledge of, in the case of the Company, George M.L. LaBranche, IV, Alfred O. Hayward, Jr., William J. Burke, III, Stephen H. Gray or Jeffrey A. McCutcheon, and in the case of Parent, Peter A. Cohen, Jeffrey M. Solomon, Thomas W. Strauss, Stephen A. Lasota or Owen Littman.

"*Law*" shall mean any foreign, federal, state, or local law, statute, code, ordinance, rule, regulation or other requirement.

"*License Agreement*" shall mean any legally binding contract, whether written or oral, and any amendments thereto (including license agreements, sub-license agreements, research agreements, development agreements, distribution agreements, consent to use agreements, customer contracts, coexistence, non-assertion or settlement agreements), pursuant to which any interest in, or any right to use or exploit any Intellectual Property has been granted.

"*Licensed Company IP*" means the Intellectual Property owned by a third party that the Company or any of its Subsidiaries has a right to use or exploit by virtue of a License Agreement.

"*Licensed Parent IP*" means the Intellectual Property owned by a third party that Parent or any of its Subsidiaries has a right to use or exploit by virtue of a License Agreement.

"*Liens*" shall mean all liens, pledges, mortgages, deeds of trust, security interests, claims, leases, charges, options, rights of first refusal or offer, preemptive rights, easements, rights-of-way, servitudes, proxies, voting trusts or agreements, transfer restriction under any shareholder or similar agreements, encumbrances, covenants, conditions and other restrictions or limitations whatsoever.

"*Material Adverse Effect*" shall mean, with respect to the Company or Parent, as the case may be, any event, change, circumstance or development which has or is reasonably likely to have a material adverse effect on (i) the financial condition, results of operations or business of such party and its Subsidiaries taken as a whole; provided, however, that, with respect to clause (i), the term "Material Adverse Effect" shall not include any effects resulting from (A) changes, after the date hereof, in GAAP or regulatory accounting requirements applicable generally to companies in the industries in which such party and its Subsidiaries operate, (B) changes, after the date hereof, in Laws or the interpretation of Laws by Governmental Entities of general applicability to companies in the industries in which such party and its Subsidiaries operate, (C) actions or omissions taken with the prior written consent of the other party or expressly required by this Agreement, (D) changes in global, national or regional political conditions (including acts of terrorism or war) or general business, economic or market conditions, including changes generally in prevailing interest rates, currency exchange rates, credit markets and price levels or trading volumes in the United States or foreign securities markets, in each case generally affecting the industries in which such party or its Subsidiaries operate, (E) changes in the underlying securities prices in the Company's or Parent's, as the case may be, portfolios, (F) the execution of this Agreement or the public disclosure of this Agreement or the transactions contemplated hereby, including losses of employees to the extent resulting therefrom, (G) earthquakes, hurricanes, tornadoes or other natural disasters, (H) any action taken by such party or its respective Subsidiaries as contemplated or permitted by this Agreement or with consent of the other party, (I) any decline in the market price or change in trading volume of the capital stock of such party or any failure to meet publicly announced revenue or earnings projections (it being understood that the underlying facts or occurrences giving rise or contributed to such changes shall be taken into account in

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determining whether there has been a Material Adverse Effect) or (J) any litigation arising from or relating to this Agreement or the transactions contemplated hereby, except, with respect to clauses (A), (B) and (D), to the extent that the effects of such changes collectively are materially and disproportionately adverse to the financial condition, results of operations or business of such party and its Subsidiaries, taken as a whole, as compared to other companies in the industry in which such party and its Subsidiaries operate or (ii) the ability of such party to timely consummate the transactions contemplated by this Agreement, including the Merger.

"*Maximum Amount*" shall mean an amount per year equal to 250% of current annual premiums paid by the Company for D&O Insurance.

"*Merger*" shall have the meaning set forth in the Recitals hereto.

"*Merger Consideration*" shall have the meaning set forth in *Section 1.8(a)*.

"*Merger Sub*" shall have the meaning set forth in the Preamble hereto.

"*Nasdaq*" shall mean the National Association of Securities Dealers Automated Quotations, as operated by The Nasdaq Stock Market, Inc.

"*NFA*" shall mean the National Futures Association.

"*NYSE*" shall mean NYSE Euronext.

"*Ordinary Course of Business*" shall mean, with respect to any Person, the ordinary and usual course of business of such Person consistent with its past practice through the date hereof. For the avoidance of doubt, "Ordinary Course of Business" with respect to the Company and its Subsidiaries shall include such Persons operating consistent with the provisions set forth on *Section 10.17-A* of the Company Disclosure Schedule.

"*Other Company Acquisition Documentation*" shall have the meaning set forth in *Section 7.5(f)*.

"*Other Parent Acquisition Documentation*" shall have the meaning set forth in *Section 7.6(e)*.

"*OTS*" shall mean the Office of Thrift Supervision.

"*Owned Company IP*" shall mean the Intellectual Property that is owned or purported to be owned by the Company or any of its Subsidiaries.

"*Owned Parent IP*" shall mean the Intellectual Property that is owned or purported to be owned by Parent or any of its Subsidiaries.

"*Parent*" shall have the meaning set forth in the Preamble hereto.

"*Parent Acquisition Proposal*" shall have the meaning set forth in *Section 7.6(a)*.

"*Parent Adverse Recommendation Change*" shall have the meaning set forth in *Section 7.6(c)*.

"*Parent Benefit Plans*" shall mean each "employee benefit plan" within the meaning of Section 3(3) of ERISA and all other material employee compensation and benefits plans, policies, programs, arrangements or payroll practices, including multiemployer plans within the meaning of Section 3(37) of ERISA, and each other stock purchase, stock option, restricted stock, severance, retention, employment, consulting, change-of-control, collective bargaining, bonus, incentive, deferred compensation, employee loan, fringe benefit and other material benefit plan, agreement, program, policy or other arrangement, whether or not subject to ERISA (including any related funding mechanism now in effect or required in the future), whether oral or written, in each case sponsored, maintained, contributed or required to be contributed to by Parent or its Subsidiaries or under which Parent or any Subsidiary has any current or potential liability.

"*Parent By-Laws*" shall have the meaning set forth in *Section 4.1(a)*.

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"*Parent Capitalization Date*" shall have the meaning set forth in *Section 4.4(a)*.

"*Parent Charter*" shall have the meaning set forth in *Section 4.1(a)*.

"*Parent Class B Common Stock*" shall have the meaning set forth in *Section 4.4(a)*.

"*Parent Common Stock*" shall have the meaning set forth in the Recitals hereto.

"*Parent Contracts*" shall have the meaning set forth in *Section 4.10(a)*.

"*Parent Disclosure Schedule*" shall mean the disclosure schedule (with specific reference to the Section or subsection of this Agreement to which the information stated in such disclosure relates) delivered by Parent to the Company simultaneously with the execution of this Agreement.

"*Parent Equity Awards*" means Parent Restricted Stock and Parent Stock Options.

"*Parent ERISA Affiliate*" means any trade or business, whether or not incorporated, that together with Parent or any Affiliate of Parent is, or has within the past six (6) years been, deemed a "single employer" within the meaning of Section 414 of the Code or Section 4001(b) of ERISA.

"*Parent Expenses*" shall mean all of Parent's actual and reasonably documented out-of-pocket fees and expenses (including fees and expenses of counsel, accountants, financial advisors and consultants) actually incurred by Parent and its respective affiliates on or prior to the termination of this Agreement in connection with the transactions contemplated by this Agreement, which amount shall not be greater than $1,500,000.

"*Parent Fund*" shall mean means any partnership, limited liability company or other collective or pooled investment vehicle or account (whether open ended or close ended) for which Parent or its Subsidiaries, directly or indirectly, acts as investment advisor, investment sub-advisor, general partner, managing member, manager or sponsor that is not registered or qualified for offer and sale to members of the general public with any Governmental Entity.

"*Parent Intervening Event*" shall mean an event, fact, circumstance, development or occurrence that affects the business, assets or operations of Parent that is unknown to (or misunderstood by) the Parent's Board of Directors as of the date of this Agreement, which event, fact, circumstance, development or occurrence becomes known to (or understood by) the Parent's Board of Directors prior to obtaining the Required Parent Vote.

"*Parent Organizational Documents*" shall mean the Parent Charter and the Parent By-Laws, together with all amendments thereto.

"*Parent Preferred Stock*" shall have the meaning set forth in *Section 4.4(a)*.

"*Parent Recommendation*" shall have the meaning set forth in *Section 4.16*.

"*Parent Regulatory Agreement*" shall have the meaning set forth in *Section 4.14(b)*.

"*Parent Requisite Regulatory Approval*" shall have the meaning set forth in *Section 8.2(i)*.

"*Parent Restricted Stock*" means any nonvested restricted shares of Parent Common Stock and nonvested restricted stock units.

"*Parent SEC Reports*" shall have the meaning set forth in *Section 4.5*.

"*Parent Stock Issuance*" shall have the meaning set forth in *Section 7.1(a)*.

"*Parent Stock Options*" means any stock option to purchase Parent Common Stock or any other equity security of Parent or any of its Subsidiaries.

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"*Parent Stock Plans*" shall mean (i) the Cowen Holdings, Inc. 2006 Equity and Incentive Plan, (ii) the Cowen Holdings, Inc. 2007 Equity and Incentive Plan and (iii) the Cowen Group, Inc. 2010 Equity and Incentive Plan.

"*Parent Stockholders Meeting*" shall mean the Parent stockholders meeting to approve the Parent Stock Issuance.

"*Parent Superior Proposal*" shall have the meaning set forth in *Section 7.6(b)*.

"*Parent Voting Agreement*" shall have the meaning set forth in the Recitals hereto.

"*Parent Voting Debt*" shall have the meaning set forth in *Section 4.4(a)*.

"*Permits*" means any approvals, authorizations, consents, licenses, permits or certificates of a Governmental Entity.

"*Permitted Liens*" shall mean (i) all statutory liens for current Taxes, assessments or other governmental charges not yet delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings, provided an appropriate reserve has been established therefor; (ii) mechanics', carriers', workers', repairers', and similar Liens arising or incurred in the Ordinary Course of Business that are not material to the business, operations and financial condition of the property so encumbered and that are not resulting from a breach, default, violation by the Company or any of its Subsidiaries, or Parent or any of its Subsidiaries, as the case may be, of any Contract or Law; (iii) statutory Liens of landlords with respect to leased real property; and (iv) Liens not securing or representing a monetary obligation and which, individually or in the aggregate, do not detract or impair in any material respect from the continued use in the ordinary course of business as currently conducted or contemplated by the Company or Parent or any of their respective Subsidiaries, as applicable, of any property subject to such Liens.

"*Person*" shall mean an individual, corporation, limited liability company, partnership, limited liability partnership, firm, joint venture, joint-stock company, association, trust, unincorporated organization, other entity or Governmental Entity.

"*Proceeding*" shall have the meaning set forth in *Section 6.3(a)*.

"*Proprietary Algorithms*" shall have the meaning set forth in *Section 3.15(h)*.

"*Proprietary Software*" shall have the meaning set forth in *Section 3.15(g)*.

"*Regulatory Agencies*" shall mean (i) FINRA, (ii) the SEC, (iii) the OTS, (iv) Nasdaq, (v) NYSE, (vi) CFTC, (vii) any non-U.S. regulatory authority and (viii) any SRO.

"*Required Company Vote*" shall have the meaning set forth in *Section 3.23*.

"*Required Parent Vote*" shall have the meaning set forth in *Section 4.20*.

"*Sarbanes-Oxley Act*" shall mean the Sarbanes-Oxley Act of 2002.

"*SEC*" shall mean the United States Securities and Exchange Commission.

"*Second Step Merger*" shall have the meaning set forth in *Section 1.10*.

"*Securities Act*" shall mean the Securities Act of 1933, as amended.

"*Securities Laws*" means the Securities Act; the Exchange Act; the Investment Company Act; the Advisers Act; "blue sky" laws of any state or territory of the United States; the CEA; and the rules and regulations of FINRA and the comparable laws, rules and regulations in effect in any other country.

"*SRO*" shall mean FINRA, the NFA, each national securities or commodities or futures exchange in the United States or elsewhere and each other commission, board, agency or body, whether United

States or foreign, that is charged with the supervision or regulation or brokers, dealers, securities underwriting or trading, stock exchanges, commodities or future exchanges, insurance companies or agents, investment companies, investment advisors, commodity pool operators or commodity trading advisors.

"*Subsidiary*" when used with respect to any party shall mean any corporation, limited liability company, partnership or other organization, whether incorporated or unincorporated, (i) of which such party or any other Subsidiary of such party is a general partner (excluding partnerships, the general partnership interests of which held by such party or any Subsidiary of such party do not have a majority of the voting interests in such partnership) or (ii) at least a majority of the securities or other interests of which having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such party or by any one or more of its Subsidiaries, or by such party and one or more of its Subsidiaries; provided that, for purposes of this Agreement, no Parent Fund shall be deemed to be a Subsidiary of Parent.

"*Surviving Company*" shall have the meaning set forth in *Section 1.1*.

"*Takeover Statute*" shall have the meaning set forth in *Section 3.19*.

"*Tax Return*" shall mean any report, return, information return, filing, claim for refund or other information, including any schedules or attachments thereto, and any amendments to any of the foregoing, supplied or required to be supplied to a taxing authority in connection with Taxes.

"*Taxes*" shall mean all federal, state, local or foreign taxes, including income, gross income, gross receipts, production, excise, employment, sales, use, transfer, ad valorem, value added, profits, license, capital stock, franchise, severance, stamp, withholding, Social Security, employment, unemployment, disability, worker's compensation, payroll, utility, windfall profit, custom duties, personal property, real property, taxes required to be collected from customers on the sale of services, registration, alternative or add-on minimum, and other taxes or like charges of any kind whatsoever, including any interest, penalties or additions thereto; and "*Tax*" shall mean any one of them.

"*Termination Date*" shall have the meaning set forth in *Section 9.1(b)*.

"*Termination Fee*" shall have the meaning set forth in *Section 9.2(b)*.

"*the other party*" shall mean, with respect to the Company, Parent and shall mean, with respect to Parent, the Company.

"*Treasury Regulations*" shall have the meaning set forth in the Recitals hereto.

"*Unaudited Company Balance Sheet*" shall mean the unaudited consolidated balance sheet of the Company and its Subsidiaries as at any applicable date prepared in good faith by the Company in accordance with GAAP applied on a basis consistent with past practices.

"*U.S. Benefit Plans*" shall have the meaning set forth in *Section 6.2(c)*.

"*WARN*" shall have the meaning set forth in *Section 3.12(e)*.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

COWEN GROUP, INC.

By: /s/ PETER A. COHEN

Name: Peter A. Cohen
Title: *Chairman and Chief Executive Officer*

LOUISIANA MERGER SUB, INC.

By: /s/ OWEN LITTMAN

Name: Owen Littman
Title: *Secretary*

LABRANCHE & CO INC.

By: /s/ GEORGE M.L. LABRANCHE, IV

Name: George M.L. LaBranche, IV
Title: *Chief Executive Officer*

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ANNEX B

February 16, 2011

The Board of Directors
LaBranche & Co Inc.
33 Whitehall Street, 8th Floor
New York, NY 10004

Members of the Board:

You have requested our opinion as investment bankers as to the fairness, from a financial point of view, to the shareholders of LaBranche & Co Inc., a Delaware corporation ("LaBranche") of the Exchange Ratio, as defined below, in the proposed merger (the "Merger") of LaBranche with and into Cowen Group, Inc., a Delaware corporation ("Cowen"), pursuant to the terms of the Agreement and Plan of Merger, dated as of February 16, 2011 by and among Cowen, Louisiana Merger Sub, Inc., a Delaware corporation and wholly-owned subsidiary of Cowen ("Merger Sub"), and LaBranche (the "Agreement"). Pursuant to the terms of the Agreement, each outstanding share of the common stock, par value $0.01 per share, of LaBranche ("LaBranche Common Stock"), will be converted into the right to receive 0.998 shares of Cowen Class A common stock, par value $0.01 per share (the "Exchange Ratio"). The terms and conditions of the Merger are more fully set forth in the Agreement.

Keefe, Bruyette & Woods, Inc. has acted as financial advisor to LaBranche. As part of our investment banking business, we are continually engaged in the valuation of the securities of financial services companies in connection with acquisitions, negotiated underwritings, secondary distributions of listed and unlisted securities, private placements and valuations for various other purposes. As specialists in the securities of financial services companies, we have experience in, and knowledge of, the valuation of financial services enterprises. In the ordinary course of our business as a broker-dealer, we may, from time to time, purchase securities from, and sell securities to, LaBranche and Cowen, and as a market maker in securities, we may from time to time have a long or short position in, and buy or sell, debt or equity securities of LaBranche and Cowen for our own account and for the accounts of our customers. To the extent we have any such positions as of the date of this opinion it has been disclosed to LaBranche. We have acted exclusively for the Board of Directors of LaBranche in rendering this fairness opinion and will receive a fee from LaBranche for our services. A portion of our fee is contingent upon the successful completion of the Merger. During the past two years we acted as co-manager on a public offering of common stock by Cowen.

In connection with this opinion, we have reviewed, analyzed and relied upon material bearing upon the financial and operating condition of LaBranche and Cowen and the Merger, including among other things, the following: (i) the Agreement; (ii) the Annual Reports to Stockholders and Annual Reports on Form 10-K for the three years ended December 31, 2009 of LaBranche and Cowen; (iii) certain interim reports to stockholders and Quarterly Reports on Form 10-Q of LaBranche and Cowen and certain other communications from LaBranche and Cowen to their respective stockholders; and (iv) other financial information concerning the businesses and operations of LaBranche and Cowen furnished to us by LaBranche and Cowen for purposes of our analysis. We have also held discussions with senior management of LaBranche and Cowen regarding the past and current business operations, regulatory relations, financial condition and future prospects of their respective companies and such other matters as we have deemed relevant to our inquiry. In addition, we have compared certain financial and stock market information for LaBranche and Cowen with similar information for certain other companies the securities of which are publicly traded, reviewed the financial terms of certain recent business combinations in the broker-dealer industry and performed such other studies and analyses as we considered appropriate.

In conducting our review and arriving at our opinion, we have relied upon the accuracy and completeness of all of the financial and other information provided to us or publicly available and we have not independently verified the accuracy or completeness of any such information or assumed any responsibility for such verification or accuracy. We have relied upon the management of LaBranche and

Cowen as to the reasonableness and achievability of the financial and operating forecasts and projections (and the assumptions and bases therefor) provided to us, and we have assumed that such forecasts and projections reflect the best currently available estimates and judgments of such managements and that such forecasts and projections will be realized in the amounts and in the time periods currently estimated by such managements. In rendering our opinion, we have not made or obtained any evaluations or appraisals of the property, liabilities (fixed, contingent, derivative, off-balance sheet or otherwise) or assets of LaBranche or Cowen or any other party.

We have assumed that, in all respects material to our analyses, the following: (i) the Merger will be completed substantially in accordance with the terms set forth in the Agreement; (ii) the representations and warranties of each party in the Agreement and in all related documents and instruments referred to in the Agreement are true and correct; (iii) each party to the Agreement and all related documents will perform all of the covenants and agreements required to be performed by such party under such documents; (iv) all conditions to the completion of the Merger will be satisfied without any waivers, amendments or modifications thereto; and (v) in the course of obtaining the necessary regulatory, contractual, or other consents or approvals for the Merger, no restrictions, including any divestiture requirements, termination or other payments or amendments or modifications, will be imposed that will have a material adverse effect on the future results of operations or financial condition of the combined entity or the contemplated benefits of the Merger, including the cost savings, revenue enhancements and related expenses expected to result from the Merger.

We have considered such financial and other factors as we have deemed appropriate under the circumstances, including, among others, the following: (i) the historical and current financial position and results of operations of LaBranche and Cowen; (ii) the assets and liabilities of LaBranche and Cowen; and (iii) the nature and terms of certain other merger transactions involving broker-dealers We have also taken into account our assessment of general economic, market and financial conditions and our experience in other transactions, as well as our experience in securities valuation and knowledge of the financial services industry generally. Our opinion is necessarily based upon conditions as they exist and can be evaluated on the date hereof and the information made available to us through the date hereof. Our opinion does not address the underlying business decision of LaBranche to engage in the Merger, or the relative merits of the Merger as compared to any strategic alternatives that may be available to LaBranche.

We are not expressing any opinion about the fairness of the amount or nature of the compensation to any of LaBranche's officers, directors or employees, or any class of such persons, relative to the compensation to the public shareholders of LaBranche.

This opinion has been reviewed and approved by our Fairness Opinion Committee in conformity with our policies and procedures established under the requirements of Rule 2290 of the Financial Industry Regulatory Authority.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Exchange Ratio in the Merger is fair, from a financial point of view, to holders of LaBranche Common Stock.

Very truly yours,

Keefe, Bruyette & Woods, Inc.

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ANNEX C

February 16, 2011

Board of Directors
Cowen Group, Inc.
599 Lexington Avenue
New York, NY 10022

Ladies and Gentlemen:

Cowen Group, Inc. ("Parent") and Louisiana Merger Sub, Inc, a wholly owned subsidiary of Parent ("Merger Sub") and LaBranche & Co., Inc. ("LaBranche") have entered into an Agreement and Plan of Merger, dated as of February 16, 2011 (the "Agreement"), pursuant to which Merger Sub will merge with and into LaBranche (the "Merger"). Under the terms of the Agreement, upon consummation of the Merger, each share of LaBranche common stock issued and outstanding immediately prior to the Merger (the "LaBranche Common Stock"), other than certain shares specified in the Agreement, will be converted into the right to receive 0.998 shares of Parent common stock (the "Exchange Ratio"). The terms of the Merger are more fully described in the Agreement. Capitalized terms used herein without definition shall have the meanings given to such terms in the Agreement. You have requested our opinion as to the fairness, from a financial point of view, of the Exchange Ratio to Parent.

Sandler O'Neill & Partners, L.P., as part of its investment banking business, is regularly engaged in the valuation of financial institutions and their securities in connection with mergers and acquisitions and other corporate transactions. In connection with this opinion, we have reviewed, among other things: (i) the Agreement; (ii) certain publicly available financial statements and other historical financial information of Parent that we deemed relevant; (iii) certain publicly available financial statements and other historical financial information of LaBranche that we deemed relevant; (iv) publicly available consensus earnings estimates for Parent the years ending December 31, 2010 and 2011 and publicly available estimated long-term growth rates for the years thereafter; (v) actual earnings and cash flows for selected business units of LaBranche for the year ending December 31, 2010 as adjusted by senior management of Parent, and estimated long-term industry growth rates for the years thereafter as discussed with Parent management; (vi) the pro forma financial impact of the Merger on Parent based on assumptions relating to changes in business operations of LaBranche following the Merger, transaction expenses, purchase accounting adjustments, cost savings and other synergies as determined by the senior management of Parent; (vii) a comparison of certain financial information for Parent, LaBranche, and certain of LaBranche's businesses, with similar institutions for which publicly available information is available; (viii) certain estimates of the value of the assets and liabilities (contingent or otherwise) of LaBranche prepared by or on behalf of Parent and adjusted by Parent to reflect anticipated cost savings following the Merger; (ix) the current market environment generally and the financial services industry environment in particular; and (xii) such other information, financial studies, analyses and investigations and financial, economic and market criteria as we considered relevant. We also discussed with certain members of senior management of Parent the business, financial condition, results of operations and prospects of Parent and held similar discussions with certain members of senior management of LaBranche regarding the business, financial condition, results of operations and prospects of LaBranche.

In performing our review, we have relied upon the accuracy and completeness of all of the financial and other information that was available to us from public sources, that was provided to us by Parent and LaBranche or their respective representatives or that was otherwise reviewed by us and have assumed such accuracy and completeness for purposes of rendering this opinion. We have further relied on the assurances of the respective managements of Parent and LaBranche that they are not aware of any facts or circumstances that would make any of such information inaccurate or misleading. We have not been asked to and have not undertaken an independent verification of any of such information and we do not assume any responsibility or liability for the accuracy or completeness thereof. We did not make an independent evaluation or appraisal of the specific assets, the collateral securing assets or the liabilities (contingent or otherwise) of Parent and LaBranche or any of their respective subsidiaries and we render no opinion or evaluation as to the value of any assets or liabilities (contingent or otherwise) of LaBranche and relied on Parent management's estimate of LaBranche's net assets and liabilities (including contingent liabilities and transaction related expenses) after funding the ongoing LaBranche businesses anticipated to be retained by Parent, and that such assets will be sufficient to off-set the contingent liabilities and transaction related expenses of LaBranche.

In preparing its analyses, Sandler O'Neill used publicly available earnings projections and long-term growth rates for Parent as discussed with management of Parent. Sandler O'Neill also received and used in its analyses certain projections of changes in certain business operations of LaBranche following the Merger, transaction costs, purchase accounting adjustments, expected cost savings and other synergies which were prepared by and/or reviewed with management of Parent. With respect to those projections, estimates and judgments, the management of Parent confirmed to us that those projections were reasonable, and the estimates and judgments reflected the reasonable estimates and judgments of the future financial performance of Parent and LaBranche and we assumed that such performance would be achieved. We express no opinion as to such estimates or the assumptions on which they are based.

We have also assumed that there has been no material change in Parent's and LaBranche's assets, financial condition, results of operations, business or prospects since the date of the most recent financial statements made available to us. We have assumed in all respects material to our analysis that Parent and certain anticipated ongoing businesses of LaBranche (subject to the anticipated cost savings Parent expects following the Merger) will remain as going concerns for all periods relevant to our analyses, that all of the representations and warranties contained in the Agreement and all related agreements are true and correct, that each party to the agreements will perform all of the covenants required to be performed by such party under the agreements, that the conditions precedent in the Agreement are not waived and that the Merger will qualify as a tax-free reorganization for federal income tax purposes. Finally, with your consent, we have relied upon the advice Parent has received from its legal, accounting and tax advisors as to all legal, accounting and tax matters, including the utilization of net operating losses and projected tax rates for Parent and LaBranche, relating to the Merger and the other transactions contemplated by the Agreement.

Our opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. Events occurring after the date hereof could materially affect this opinion. We have not undertaken to update, revise, reaffirm or withdraw this opinion or otherwise comment upon events occurring after the date hereof. We will receive a fee for rendering this Opinion and Parent has also agreed to indemnify us against certain liabilities arising out of our engagement. In the past we have provided, and received fees for, certain investment banking services to Parent, most recently in connection with serving as an underwriter in Parent's common stock offering and in connection with Parent's business combination with Ramius LLC.

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Our opinion is directed to the Board of Directors of Parent in connection with its consideration of the Merger and does not constitute a recommendation to any shareholder of either Parent or LaBranche as to how any such shareholder should vote at any meeting of shareholders called to consider and vote upon the Merger. Our opinion is directed only to the fairness, from a financial point of view, of the Exchange Ratio to Parent and does not address the underlying business decision of Parent to engage in the Merger, the relative merits of the Merger as compared to any other alternative business strategies that might exist for Parent or the effect of any other strategic or financial transaction in which Parent might engage. This Opinion has been approved by Sandler O'Neill's fairness opinion committee. We do not express any opinion as to the fairness of the amount or nature of the compensation to be received in the Merger by any officer, director, or employees, or class of such persons, relative to the compensation to be received in the Merger by any other shareholder.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Exchange Ratio is fair to Parent from a financial point of view.

Very truly yours,

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PART II
INFORMATION NOT REQUIRED IN PROSPECTUS; UNDERTAKINGS

Item 20. ***Indemnification of Directors and Officers***

Pursuant to the DGCL, a corporation may indemnify any person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than a derivative action by or in the right of such corporation) who is or was a director, officer, employee or agent of such corporation, or serving at the request of such corporation in such capacity for another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of such corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

The DGCL also permits indemnification by a corporation under similar circumstances for expenses (including attorneys' fees) actually and reasonably incurred by such persons in connection with the defense or settlement of a derivative action or suit, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to such corporation unless the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

To the extent a director, officer, employee or agent is successful in the defense of such an action, suit or proceeding, the corporation is required by the DGCL to indemnify such person for actual and reasonable expenses incurred thereby. Expenses (including attorneys' fees) incurred by such persons in defending any action, suit or proceeding may be paid in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it is ultimately determined that such person is not entitled to be so indemnified.

The DGCL provides that the indemnification described above shall not be deemed exclusive of other indemnification that may be granted by a corporation pursuant to its by-laws, disinterested directors'' vote, stockholders' vote, agreement or otherwise.

The DGCL also provides corporations with the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation in a similar capacity for another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability as described above.

The indemnification and advancement of expenses shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Cowen's amended and restated certificate of incorporation and amended and restated by-laws permit Cowen to indemnify any director or officer of Cowen to the fullest extent permitted by Delaware law. Cowen's amended and restated certificate of incorporation provides that no director shall be personally liable to Cowen or any stockholder for monetary damages for breach of fiduciary duty as a director, except that liability of a director shall not be eliminated for any breach of the director's duty of loyalty to Cowen or its stockholders; acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law; under Section 174 of the DGCL; or for any transaction from which the director derived an improper personal benefit.

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The foregoing is only a general summary of certain aspects of Delaware law and Cowen's amended and restated certificate of incorporation and amended and restated by-laws dealing with indemnification of directors and officers and does not purport to be complete. It is qualified in its entirety by reference to the detailed provisions of the DGCL and the amended and restated certificate of incorporation and amended and restated by-laws of the Company.

Item 21. ***Exhibits and Financial Statement Schedules***

Exhibit No.	Document
2.1	Agreement and Plan of Merger, dated as of February 16, 2011, among Cowen Group, Inc., LaBranche & Co Inc. and Louisiana Merger Sub, Inc. (included as Annex A to the joint proxy statement/prospectus forming a part of this Registration Statement and incorporated herein by reference) (The annexes, schedules and certain exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K)
5.1	Opinion of Willkie Farr & Gallagher LLP as to the validity of the shares of Cowen Class A common stock to be issued in the merger*
8.1	Opinion of Willkie Farr & Gallagher LLP as to certain tax matters*
8.2	Opinion of Weil, Gotshal & Manges LLP as to certain tax matters*
23.1	Consent of Willkie Farr & Gallagher LLP (included in Exhibit 8.1 to the joint proxy/prospectus forming a part of this Registration Statement)*
23.2	Consent of Weil, Gotshal & Manges LLP (included in Exhibit 8.2 to the joint proxy/prospectus forming a part of this Registration Statement)*
23.3	Consent of Independent Registered Public Accounting Firm of Cowen Group, Inc. PricewaterhouseCoopers LLP
23.4	Consent of Independent Public Accounting Firm of LaBranche & Co Inc., Rothstein, Kass & Company, P.C.
24.1	Power of Attorney (included on signature page hereto)
99.1	Voting Agreement, dated as of February 16, 2011, among Cowen Group, Inc. and the individuals listed on Schedule A thereto (filed as Exhibit 4.1 to Cowen's Form 8-K filed February 17, 2011 and incorporated herein by reference)
99.2	Voting Agreement dated as of February 16, 2011, between LaBranche & Co Inc. and RCG Holdings LLC (filed as Exhibit 10.1 to LaBranche's Form 8-K (File No. 001-15251) filed February 18, 2011 and incorporated herein by reference)
99.3	Consent of Keefe, Bruyette & Woods
99.4	Consent of Sandler O'Neill + Partners, L.P.
99.5	Form of Proxy Card of Cowen Group, Inc.*
99.6	Form of Proxy Card of LaBranche & Co Inc.*

* To be filed by amendment

Item 22. ***Undertakings***

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement: (i) to include any prospectus required by Section 10(a)(3) of the Securities Act; (ii) to reflect in the prospectus any facts or events arising

after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement (notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement); and (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser, each filing of the Registrant's annual report pursuant to Section 13 (a) or 15 (d) of the Securities Exchange Act of 1934, as amended (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15 (d) of the Securities Exchange Act of 1934, as amended) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(5) That prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the registrant undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other items of the applicable form.

(6) That every prospectus (i) that is filed pursuant to paragraph (5) above, or (ii) that purports to meet the requirements of Section 10(a)(3) of the Securities Act and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to this registration statement and will not be used until such amendment has become effective, and that for the purpose of determining liabilities under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(7) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11 or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(8) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in this registration statement when it became effective.

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(9) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(10) The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to whom the prospectus is sent or given, the latest annual report to security holders that is incorporated by reference in the prospectus and furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3 under the Securities Exchange Act of 1934; and, where interim financial information required to be presented by Article 3 of Regulation S-X are not set forth in the prospectus, to deliver, or cause to be delivered to each person to whom the prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the prospectus to provide such interim financial information.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on March 31, 2011.

Cowen Group, Inc.

By: /s/ PETER A. COHEN

Name: Peter A. Cohen
Title: *Chairman of the Board, Chief Executive Officer and President*

SIGNATURES AND POWER OF ATTORNEY

We, the undersigned officers and directors of Cowen Group, Inc., hereby severally constitute and appoint Peter A. Cohen, Jeffrey M. Solomon and Owen S. Littman, or any of them, our true and lawful attorney with full power to sign for us and in our names in the capacities indicated below the registration statement on Form S-4 filed herewith and any and all pre-effective and post-effective amendments to said registration statement and generally to do all such things in our name and behalf in our capacities as officers and directors to enable Cowen Group, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorney to said registration statement and any and all amendments thereto.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ PETER A. COHEN Peter A. Cohen	Chairman of the Board, Chief Executive Officer and President (Principal Executive Officer)	March 31, 2011
/s/ JEROME S. MARKOWITZ Jerome S. Markowitz	Director	March 31, 2011
/s/ JACK H. NUSBAUM Jack H. Nusbaum	Director	March 31, 2011
/s/ STEVEN KOTLER Steven Kotler	Director	March 31, 2011
/s/ EDOARDO SPEZZOTTI Edoardo Spezzotti	Director	March 31, 2011
/s/ JOHN E. TOFFOLON, JR. John E. Toffolon, Jr.	Director	March 31, 2011
/s/ JOSEPH R. WRIGHT Joseph R. Wright	Director	March 31, 2011
/s/ STEPHEN A. LASOTA Stephen A. Lasota	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 31, 2011

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*
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