CASE NOS. 79807 & 80709

IN THE SUPREME COURT OF THE STATE OF NEVADA

POPE INVESTMENTS, LLC, A DELAWARE LIMITED LIABILITY COMPANY; POPE INVESTMENTS II, LLC, A DELAWARE LIMITED LIABILITY COMPANY; AND ANNUITY & LIFE REASSURANCE, LTD., AN UNKNOWN LIMITED COMPANY,

Appellants,

vs.

CHINA YIDA HOLDING, CO., A NEVADA CORPORATION,

Respondent.

ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, CASE NO. A-16-746732-P

JOINT APPENDIX VOLUME II

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Boies Schiller Flexner LLP and that on the 11th day of August, 2020 I electronically filed the foregoing *Joint Appendix Volume I through Volume VIII* with the Clerk of the Court using the Supreme Court Electronic Filing System, which will send notification of such filing to the following attorneys of record:

J. Robert Smith, Esq.
Joshua Halen, Esq.
Attorneys for Respondents

/s/ Shilah Wisniewski
SHILAH WISNIEWSKI
An employee of Boies Schiller Flexner LLP

CERTAIN MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of certain material U.S. federal income tax consequences to beneficial owners of shares of Company Common Stock upon the exchange of shares of Company Common Stock for cash pursuant to the Merger. This summary is general in nature and does not discuss all aspects of U.S. federal income taxation that may be relevant to a holder of shares of Company Common Stock in light of its particular circumstances. In addition, this summary does not describe any tax consequences arising under the laws of any local, state or foreign jurisdiction and does not consider any aspects of U.S. federal tax law other than income taxation. This summary deals only with shares of Company Common Stock held as capital assets within the meaning of Section 1221 of the Internal Revenue Code of 1986, as amended, or the "Code" (generally, property held for investment), and does not address tax considerations applicable to any holder of shares of Company Common Stock that may be subject to special treatment under the U.S. federal income tax laws, including but not limited to:

- a bank, insurance company, or other financial institution;
- a tax-exempt organization;
- a retirement plan or other tax-deferred account;
- a partnership, an S corporation or other pass-through entity (or an investor in a partnership, S corporation or other pass-through entity);
- a mutual fund;
- a real estate investment trust;
- a dealer or broker in stocks and securities, or currencies;
- a trader in securities that elects mark-to-market treatment;
- a holder of shares of Company Common Stock subject to the alternative minimum tax provisions of the Code;
- a holder of shares of Company Common Stock that received the shares of Company Common Stock through the exercise of an employee stock option, through a tax qualified retirement plan or otherwise as compensation;
- a "U.S. Holder" (as defined herein) that has a functional currency other than the United States dollar;
- "controlled foreign corporations," "passive foreign investment companies," or corporations that accumulate earnings to avoid U.S. federal income tax;
- a holder of shares of Company Common Stock that is treated as owning, or as related to persons who own or are treated as owning stock of the Company after the Merger by reason of certain U.S. rules related to the attribution of ownership of shares and transfers among related parties;
- a person that holds shares of Company Common Stock as part of a hedge, straddle, constructive sale, conversion or other risk reduction strategy or integrated transaction;
- a United States expatriate or a former citizen or long term resident of the United States; or
- any Principal Shareholder or a holder who is treated as owning the shares of a Principal Shareholder pursuant to the constructive ownership provisions of the Code.

This summary is based on the Code, the Treasury regulations promulgated under the Code, and rulings and judicial decisions, all as in effect as of the date hereof, and all of which are subject to change or differing interpretations at any time, with possible retroactive effect. We have not sought, and do not intend to seek, any ruling from the Internal Revenue Service (the "**IRS**") or opinion of counsel with respect to the statements made and the conclusions reached in the following summary, and no assurance can be given that the IRS will agree with the views expressed herein, or that a court will not sustain any challenge by the IRS in the event of litigation. This discussion does not address any tax consequences arising under the unearned income Medicare contribution tax pursuant to the Health Care and Education Reconciliation Act of 2010.

THE DISCUSSION SET OUT HEREIN IS INTENDED ONLY AS A SUMMARY OF THE MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO A HOLDER OF SHARES OF COMPANY COMMON STOCK WHO RECEIVES CASH IN THE MERGER. WE URGE YOU TO CONSULT YOUR OWN TAX ADVISOR WITH RESPECT TO THE SPECIFIC TAX CONSEQUENCES TO YOU IN CONNECTION WITH THE MERGER IN LIGHT OF YOUR OWN PARTICULAR CIRCUMSTANCES, INCLUDING FEDERAL ESTATE, GIFT AND OTHER NON-INCOME TAX CONSEQUENCES, AND TAX CONSEQUENCES UNDER STATE, LOCAL OR FOREIGN TAX LAWS OR TAX TREATIES.

For purposes of this discussion, the term "U.S. Holder" means a beneficial owner of shares of Company Common Stock that is, for U.S. federal income tax purposes:

- an individual citizen or resident of the United States;
- a corporation (or any other entity or arrangement treated as a corporation for U.S. federal income tax purposes) that is created or organized (or treated as created or organized) in or under the laws of the United States or 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 if (i) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons has the authority to control all substantial decisions of the trust or (ii) the trust has validly elected to be treated as a "United States person" under applicable Treasury regulations.

A "non-U.S. Holder" is any beneficial owner of shares of Company Common Stock that is not a U.S. Holder and is not a partnership or other pass-through entity for U.S. federal income tax purposes.

If a partnership (including any entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds shares of Company Common Stock, the U.S. federal income tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. Such holder should consult its own tax advisor regarding the tax consequences of exchanging the shares of Company Common Stock pursuant to the Merger.

U.S. Holders

The Merger

The exchange of shares of Company Common Stock for cash pursuant to the Merger will be a taxable transaction for U.S. federal income tax purposes, and a U.S. Holder who receives cash for shares of Company Common Stock pursuant to the Merger will recognize gain or loss, if any, equal to the difference between the amount of cash received and the U.S. Holder's adjusted tax basis in the shares of Company Common Stock exchanged therefor. Gain or loss will be determined separately for each block of shares of Company Common Stock (i.e., shares of Company Common Stock acquired at the same cost and in a single transaction). Such gain or loss will be capital gain or loss, and will be long-term capital gain or loss if such U.S. Holder's holding period for the shares of Company Common Stock is more than one year at the time of the exchange. Long-term capital gain recognized by a non-corporate U.S. Holder generally is subject to tax at a lower rate than short-term capital gain or ordinary income. There are limitations on the deductibility of capital losses.

If a PRC income tax applies to any gain from the exchange of shares of Company Common Stock by a U.S. Holder pursuant to the Merger, such tax may be treated as a foreign tax eligible for a deduction from such U.S. Holder's U.S. federal taxable income or a foreign tax credit against such U.S. Holder's U.S. federal income tax liability (subject to applicable conditions and limitations). In addition, if such PRC tax applies to any such gain, such U.S. Holder may be entitled to certain benefits under the Agreement between the Government of the United States of America and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income (the "**U.S.-PRC Tax Treaty**"), if such U.S. Holder is considered a resident of the United States for purposes of, and otherwise meets the requirements of, the U.S.-PRC Tax Treaty. U.S. Holders should consult their own tax advisors regarding the deduction or credit for any such PRC tax and their eligibility for the benefits of the U.S.-PRC Tax Treaty.

Information Reporting and Backup Withholding

A U.S. Holder (other than certain exempt recipients) generally will be subject to information reporting with respect to the proceeds from the disposition of shares of Company Common Stock pursuant to the Merger. Furthermore, backup withholding may apply to such amounts unless the U.S. Holder provides a valid taxpayer identification number and complies with certain certification procedures (generally, by providing a properly completed and executed IRS Form W-9) or otherwise establishes an exemption from backup withholding. Any amounts withheld under the backup withholding rules from a payment to a U.S. Holder generally will be allowed as a credit against that U.S. Holder's U.S. federal income tax liability and may entitle the U.S. Holder to a refund, provided that the required information is timely furnished to the IRS. Each U.S. Holder should complete and sign the IRS Form W-9, which will be included with the Letter of Transmittal to be returned to the paying agent, to provide the information and certification necessary to avoid backup withholding, unless an exemption applies and is established in a manner satisfactory to the paying agent.

Non-U.S. Holders

The Merger

A non-U.S. Holder generally will not be subject to U.S. federal income tax in respect of gain recognized on the exchange of shares of Company Common Stock for cash pursuant to the Merger unless:

- the non-U.S. Holder is an individual who was present in the United States for 183 days or more during the taxable year of the exchange and certain other conditions are met;
- the gain is effectively connected with the non-U.S. Holder's conduct of a trade or business in the United States, and, if required by an applicable tax treaty, is attributable to a permanent establishment or fixed base maintained by the non-U.S. Holder in the United States; or
- the Company is or has been a United States real property holding corporation, or a USRPHC, for U.S. federal income tax purposes at any time during the shorter of the five-year period ending on the date of exchange of the shares of Company Common Stock or the period that the non-U.S. Holder held the shares of Company Common Stock, and, generally, in the case where the shares of Company Common Stock are regularly traded on an established securities market, the non-U.S. Holder has owned, directly or indirectly, more than 5% of the shares of Company Common Stock at any time during the shorter of (i) the five-year period ending on the date of exchange of the shares of Company Common Stock or (ii) the period that the non-U.S. Holder held the shares of Company Common Stock. There can be no assurance that the shares of Company Common Stock will be treated as regularly traded on an established securities market for this purpose.

Any U.S. source capital gain of a non-U.S. Holder described in the first bullet point above (which may be offset by U.S. source capital losses recognized by the non-U.S. Holder during the taxable year of the exchange) generally will be subject to tax at a flat U.S. federal income tax rate of 30% (or such lower rate as may be specified under an applicable income tax treaty). Unless an applicable income tax treaty provides otherwise, gain described in the second and third bullet points above generally will be subject to U.S. federal income tax on a net income basis in the same manner as if the non-U.S. Holder were a resident of the United States. Non-U.S. Holders that are foreign corporations also may be subject to an additional branch profits tax at a 30% rate (or a lower applicable tax treaty rate). Non-U.S. Holders are urged to consult any applicable tax treaties, which may provide for more favorable treatment in the application of these rules.

With respect to the third bullet point above, the Company generally will be classified as a USRPHC if (looking through certain subsidiaries) the fair market value of its United States real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Based on its financial statements and operations, the Company believes that it neither currently is, nor within the past five years has been, a USRPHC. Non-U.S. Holders, particularly those non-U.S. Holders that could be treated as actually or constructively holding more than 5% of the shares of Company Common Stock, should consult their own tax advisors regarding the U.S. federal income tax consequences of exchanging shares of Company Common Stock for cash pursuant to the Merger.

Information Reporting and Backup Withholding

A non-U.S. Holder may be subject to information reporting and backup withholding at the applicable rate with respect to the proceeds from the exchange of shares of Company Common Stock pursuant to the Merger, unless the non-U.S. Holder certifies on an appropriate IRS Form W-8 that such non-U.S. Holder is not a United States person, or by otherwise establishing an exemption in a manner satisfactory to the paying agent. Information provided by a non-U.S. Holder may be disclosed to such non-U.S. Holder's local tax authorities under an applicable tax treaty or information exchange agreement. Non-U.S. Holders should consult their tax advisors regarding the applicable certification requirements.

Any amounts withheld under the backup withholding tax rules generally will be allowed as a credit against the non-U.S. Holder's U.S. federal income tax liability and may entitle such non-U.S. Holder to a refund, provided the required information is timely furnished to the IRS.

THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO PARTICULAR HOLDERS OF SHARES OF COMPANY COMMON STOCK WHO RECEIVE CASH PURSUANT TO THE MERGER. HOLDERS OF SHARES OF COMPANY COMMON STOCK SHOULD CONSULT THEIR OWN TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF EXCHANGING THEIR SHARES OF COMPANY COMMON STOCK FOR CASH IN THE MERGER UNDER ANY FEDERAL, STATE, FOREIGN, LOCAL OR OTHER TAX LAWS OR TAX TREATIES.

CERTAIN MATERIAL PRC INCOME TAX CONSEQUENCES

The following is a summary of certain material PRC tax consequences of the Merger to beneficial owners of our common stock who are U.S. Holders.

On March 16, 2007, the National People's Congress passed the Enterprise Income Tax Law of the PRC ("**EIT Law**"), which became effective on January 1, 2008. Under the EIT Law, enterprises are classified as "resident enterprises" and "non-resident enterprises." Pursuant to the EIT Law and its implementing rules, enterprises established outside China whose "de facto management bodies" are located in China are considered "resident enterprises" and subject to the uniform 25% enterprise income tax rate on worldwide income. According to the implementing rules of the EIT Law, "de facto management body" refers to a managing body that in practice exercises overall management control over the production and business, personnel, accounting and assets of an enterprise. On April 22, 2009, the State Administration of Taxation ("**SAT**") issued Circular 82, "Issues Concerning the Identification of China - Controlled Overseas-Incorporated Enterprises as Resident Enterprises on the Basis of the Standard of De Facto Management Bodies." This Circular provides that an overseas incorporated enterprise that is controlled domestically will be recognized as a "tax-resident enterprise" if it satisfies all of the following conditions: (i) the senior management responsible for daily production/business operations are primarily located in the PRC, and the location(s) where such senior management execute their responsibilities are primarily in the PRC; (ii) strategic financial and personnel decisions are made or approved by organizations or personnel located in the PRC; (iii) major properties, accounting ledgers, company seals and minutes of board meetings and shareholder meetings, etc., are maintained in the PRC; and (iv) 50% or more of the board members with voting rights or senior management habitually reside in the PRC. On July 27, 2011, the SAT enacted "Announcement of the State Administration of Taxation on Printing and Distributing the Administrative Measures for Income Taxation on Chinese-controlled Resident Enterprises Incorporated Overseas (Trial Implementation)." Under those two rules, the enterprises may request the PRC tax authorities to determine their "resident enterprise" status or the tax authority may investigate and determine an enterprise's status. The target enterprises under those two rules are foreign registered companies controlled by PRC companies, however, the PRC tax authority may determine if a foreign registered company controlled by one or more PRC individuals is a "resident enterprise."

Given the short history of the EIT Law and lack of applicable legal precedent, it remains unclear how the PRC tax authorities will determine the PRC tax resident status of a company organized under the laws of a foreign (non-PRC) jurisdiction, such as us. If the PRC tax authorities determine that we are a "resident enterprise" for PRC enterprise income tax purposes, gains realized by investors that are not tax residents of the PRC, including U.S. Holders ("**non-resident investors**") may be treated as income derived from sources within the PRC. In such event, any such gain derived by such investors on the sale or transfer of our common stock, including pursuant to the Merger, may be subject to income tax under the PRC tax laws. Under the EIT Law and its implementing rules, non-resident investors that are enterprises (but not individuals) and that (i) do not have an establishment or place of business in the PRC or (ii) have an establishment or place of business in the PRC but the relevant income is not effectively connected with the establishment or place of business, generally may be subject to a 10% PRC income tax on any gain realized on the sale or transfer of our common stock, including pursuant to the Merger, if such gain is regarded as income derived from sources within the PRC.

Additionally, if we are determined to be a resident enterprise under the EIT Law, under the PRC Individual Income Tax Law and its implementing rules, any gain realized on the sale or transfer of our common stock, including pursuant to the Merger, by non-resident investors who are individuals may be subject to a 20% PRC income tax if such gain is regarded as income derived from sources within the PRC.

Accordingly, if non-resident investors as described under the PRC tax laws (including U.S. Holders) realized any gain from the sale or transfer of our common stock pursuant to the Merger and if such gain were considered as PRC-sourced income, such non-resident investors may be responsible for paying the applicable PRC income tax on the gain from the sale or transfer of our common stock. Under the PRC tax laws, however, we would not have an obligation to withhold PRC income tax in respect of the gains that non-resident investors (including U.S. Holders) may realize from the sale or transfer of our common stock pursuant to the Merger.

Moreover, the SAT released Circular Guoshuihan No. 698 ("**Circular 698**") on December 10, 2009 that reinforces the taxation of certain equity transfers by non-resident investors through overseas holding vehicles. Circular 698 addresses indirect equity transfers as well as other issues. Circular 698 is retroactively effective from January 1, 2008. Subsequently SAT also released the Announcement on Several Issues Related to Enterprise Income

Tax for Indirect Asset Transfer by Non-PRC Resident Enterprises ("**Announcement 7**"), effective from February 3, 2015, which in part supersedes Circular 698. Announcement 7 addresses indirect share transfer as well as other issues. According to Announcement 7, if a non-PRC resident enterprise transfers the equity interests of or similar rights or interests in overseas companies which directly or indirectly own PRC taxable assets through an arrangement without a reasonable commercial purpose, but rather to avoid PRC corporate income tax, the transaction will be re-characterized and treated as a direct transfer of PRC taxable assets subject to PRC corporate income tax. Announcement 7 specifies certain factors that should be considered in determining whether an indirect transfer has a reasonable commercial purpose. Since Announcement 7 has a short history, there is uncertainty as to its application and in particular, the interpretation of the term "reasonable commercial purpose." Announcement 7 further provides that, the entity which has the obligation to pay the consideration for the transfer to the transferring shareholders has the obligation to withhold any PRC corporate income tax that is due. If the transferring shareholders do not pay corporate income tax that is due for a transfer and the entity which has the obligation to pay the consideration does not withhold the tax due, the PRC tax authorities may impose a penalty on the entity that so fails to withhold, which may be relieved or exempted from the withholding obligation and any resulting penalty under certain circumstances if it reports such transfer to the PRC tax authorities. A non-resident investor may become at risk of being taxed or imposed a penalty under Announcement 7 and may be required to expend valuable resources to comply with Announcement 7 or to establish that such non-resident investor should not be taxed under Announcement 7, including in respect of any gain from the sale or transfer of our common stock pursuant to the Merger.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC public reference room located at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Please call the SEC at 800-SEC-0330 for further information on the public reference room. Our SEC filings are also available to the public at the SEC website at *www.sec.gov*. You also may obtain free copies of the documents we file with the SEC, including this proxy statement, by going to the Investor Relations page of our corporate website at *www.yidachina.com.cn*. Our website address is provided as an inactive textual reference only. The information provided on our website, other than copies of the documents listed below that have been filed with the SEC, is not part of this proxy statement, and therefore is not incorporated herein by reference.

Statements contained in this proxy statement, or in any document incorporated by reference in this proxy statement regarding the contents of any contract or other document, are not necessarily complete and each such statement is qualified in its entirety by reference to that contract or other document filed as an exhibit with the SEC. The SEC allows us to "incorporate by reference" into this proxy statement documents we file with the SEC. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this proxy statement, and later information that we file with the SEC will update and supersede that information. We incorporate by reference the documents listed below and any documents filed by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this proxy statement and before the date of the special meeting:

- Annual Report on Form 10-K for the fiscal year ended December 31, 2015 (filed with the SEC on March 30, 2016);
- Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2016 (filed with the SEC on May 16, 2016); and
- Current Reports on Form 8-K, filed with the SEC on March 10, 2016 and April 13, 2016.

Any person, including any beneficial owner, to whom this proxy statement is delivered may request copies of proxy statements and any of the documents incorporated by reference in this document or other information concerning us, without charge, by written or telephonic request directed to China Yida Holding, Co., 28/F Yifa Building, No. 111 Wusi Road, Fuzhou, Fujian, People's Republic of China, Attn: Jocelyn Chen or +86 (591) 28082230 or from the SEC through the SEC website at the address provided above. Documents incorporated by reference are available without charge, excluding any exhibits to those documents unless the exhibit is specifically incorporated by reference into those documents.

ROTH has consented to the use of its materials by the filing persons for purposes of public disclosure in the Schedule 13E-3 related to this proxy statement and by the Company for purposes of public disclosure in this proxy statement. Any materials prepared by ROTH for purposes of this transaction referenced in this proxy statement will be made available for inspection and copying at the principal executive offices of the Company during its regular business hours by any interested Company stockholder or his, her or its representative who has been so designated in writing.

AMENDED AND RESTATED

AGREEMENT AND PLAN OF MERGER

BY AND BETWEEN

CHINA YIDA HOLDING, CO.

AND

CHINA YIDA HOLDING ACQUISITION CO.

Dated as of April 12, 2016

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AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER

THIS AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER (this "**Agreement**") is made and entered into as of April 12, 2016 by and between China Yida Holding Co. a corporation organized under the laws of the State of Nevada (the "**Company**"), and China Yida Holding Acquisition Co., a corporation organized under the laws of the State of Nevada ("**Acquisition**").

WITNESSETH:

WHEREAS, the Company and Acquisition entered into a certain agreement and plan of merger as of March 8, 2016 (the "**Original Merger Agreement**"), and now the Company and Acquisition wish to amend and restate the Original Merger Agreement in its entirety in the form of this Agreement, which shall for all purposes be deemed to supersede the Original Merger Agreement;

WHEREAS, it is proposed that Acquisition will merge with and into the Company in accordance with the Nevada Revised Statutes (the "**NRS**") Chapter 92A, and the terms and conditions of this Agreement (the "**Merger**"), with the Company surviving the Merger;

WHEREAS, the Company Board has established a special committee of the Company Board consisting of independent directors (the "**Special Committee**") to, among other things, review, evaluate, negotiate, recommend or not recommend any offer by Acquisition to acquire securities of the Company;

WHEREAS, the Special Committee has unanimously recommended that the Company Board approve this Agreement and the Merger and the other transactions contemplated hereby;

WHEREAS, the Company Board (acting upon the unanimous recommendation of the Special Committee) has (i) unanimously approved this Agreement, and approved the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (ii) resolved to recommend that the Company Shareholders authorize this Agreement and the Merger in accordance with the NRS;

WHEREAS, the board of directors of Acquisition (i) approved this Agreement and approved the execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (ii) resolved to authorize and approve this Agreement and the consummation of the transactions contemplated hereby, including the Merger, in accordance with the NRS;

WHEREAS, as a condition to and inducement of the Company's willingness to enter into this Agreement, concurrently with the execution and delivery of this Agreement, each of Mr. Minhua Chen and Mrs. Yanling Fan (each, a "**Guarantor**"), is entering into an amended and restated limited guarantee (the "**Limited Guarantee**"), a true copy of which is attached hereto as **Exhibit A**, in favor of the Company to guarantee the due and punctual payment, performance and discharge of certain payment obligations of Acquisition under this Agreement;

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Acquisition willingness to enter into this Agreement, each of the Principal Shareholders (as hereinafter defined) has executed and delivered a voting agreement, dated as of the date hereof and attached hereto as **Exhibit B**, between the Principal Shareholders and the Company (together with the schedules and exhibits attached thereto, the "**Voting Agreement**"), pursuant to which the Principal Shareholders agree to vote all their Company Shares held directly or indirectly by them in favor of the authorization and approval of this Agreement, as may be amended from time to time, and the transactions contemplated hereby;

WHEREAS, the Principal Shareholders and Acquisition executed that certain rollover agreement dated as of March 8, 2016 (the "**Rollover Agreement**"), which agreement is terminated and no longer of any force or effect upon the execution of the Voting Agreement;

WHEREAS, Acquisition and the Company desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and the transactions contemplated hereby to prescribe certain conditions with respect to the consummation of the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, and intending to be legally bound hereby, Acquisition and the Company hereby agree as follows:

ARTICLE I
DEFINITIONS & INTERPRETATIONS

Section 1.1 Certain Definitions. For all purposes of and under this Agreement, the following capitalized terms shall have the following respective meanings:

"**Acquisition Proposal**" shall mean any offer or proposal (other than an offer or proposal by Acquisition) to engage in an Acquisition Transaction.

"Acquisition Termination Fee" shall mean an amount equal to $375,000.

"**Acquisition Transaction**" shall mean any transaction (other than the transactions contemplated by this Agreement) involving: (i) the purchase or other acquisition by any Person or "group" (as defined in or under Section 13(d) of the Exchange Act), directly or indirectly, of more than twenty percent (20%) of the Company Shares outstanding as of the consummation of such purchase or other acquisition, or any tender offer or exchange offer by any Person or "group" (as defined in or under Section 13(d) of the Exchange Act) that, if consummated in accordance with its terms, would result in such Person or "group" beneficially owning more than twenty percent (20%) of the Company Shares outstanding as of the consummation of such tender or exchange offer; or (ii) a sale, transfer, acquisition or disposition of more than twenty percent (20%) of the consolidated assets of the Company and its Subsidiaries taken as a whole (measured by the fair market value thereof), or to which twenty percent (20%) or more of the net revenue or net income of the Company on a consolidated basis are attributable.

"**Affiliate**" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. For purposes of the immediately preceding sentence, the term "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, 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. For the avoidance of doubt, a Subsidiary of a Person shall be deemed an Affiliate of such Person.

"**Business Day**" shall mean any day, other than a: (i) day which is a Saturday or Sunday; (ii) day which is a legal holiday under the Laws of the State of Nevada, Hong Kong or the PRC; or (iii) day on which banking institutions located in the State of Nevada, Hong Kong or the PRC are authorized or required by Law or Order to close.

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

"**Company Balance Sheet**" shall mean the unaudited consolidated balance sheet of the Company and its Subsidiaries as of September 30, 2015.

"**Company Balance Sheet Date**" shall mean September 30, 2015.

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

"Company Disclosure Letter" shall mean the disclosure schedule delivered by the Company to Acquisition on the date of this Agreement.

"**Company Material Adverse Effect**" shall mean any change, effect, event or development (each a "**Change**", and collectively, "**Changes**"), individually or in the aggregate, that has had or would reasonably be expected to have a material adverse effect on the business, condition (financial or otherwise) or results of operations of the Company and its Subsidiaries, taken as a whole; provided that no Change (by itself or when aggregated or taken together with

any and all other Changes) directly or indirectly resulting from, relating to or arising out of any of the following shall be deemed to be or constitute a "Company Material Adverse Effect," or be taken into account when determining whether a "Company Material Adverse Effect" has occurred:

(i) general economic conditions (or changes in such conditions) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(ii) conditions (or changes in such conditions) in the securities markets, capital markets, credit markets, currency markets or other financial markets in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business, including any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally on any securities exchange or over-the-counter market;

(iii) conditions (or changes in such conditions) in the industries in which the Company and its Subsidiaries conduct business;

(iv) political conditions (or changes in such conditions) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business or acts of war, sabotage or terrorism (including any escalation or general worsening of any such acts of war, sabotage or terrorism) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(v) earthquakes, hurricanes, tsunamis, tornadoes, floods, mudslides, wild fires or other natural disasters, weather conditions and other force majeure events in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(vi) changes in Law (or the interpretation thereof) or in GAAP or other accounting standards (or in each case the interpretation thereof) used by the Company or any of its Subsidiaries;

(vii) the announcement of this Agreement or the pendency or consummation of the transactions contemplated hereby, including (A) the identity of, or any facts or circumstances relating to, Acquisition, (B) the loss or departure of officers or other employees of the Company or any of its Subsidiaries directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement, (C) the termination or potential termination of (or the failure or potential failure to renew or enter into) any Contracts with customers, suppliers, distributors or other business partners, whether as a direct or indirect result of the loss or departure of officers or employees of the Company or any of its Subsidiaries or otherwise, directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement, and (D) any other negative development (or potential negative development) in the Company's or any of its Subsidiaries' relationships with any of its customers, suppliers, distributors or other business partners, whether as a direct or indirect result of the loss or departure of officers or employees of the Company or any of its Subsidiaries or otherwise, directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement;

(viii) changes in the Company's stock price or the trading volume of the Company's stock, or any failure by the Company to meet any public estimates or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period, or any failure by the Company to meet any internal budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations (it being understood that the underlying cause of such failure may, except as otherwise provided in the other clauses of this proviso, be taken into account in determining whether a Company Material Adverse Effect has occurred); and

(ix) any legal proceedings made or brought by any of the current or former shareholders of the Company (on their own behalf or on behalf of the Company) against the Company or any other legal proceedings arising out of the Merger or in connection with any other transactions contemplated by this Agreement;

except to the extent such effects directly or indirectly resulting from, arising out of, attributable to or related to the matters described in clauses (i) through (vi) above materially and disproportionately affect the Company and its

Subsidiaries, taken as a whole, as compared to other companies that conduct business in the countries and regions in the world and in the industries in which the Company and its Subsidiaries operate or conduct business (in which case, such effects may be taken into account when determining whether a "Company Material Adverse Effect" has occurred, but only to the extent of such disproportionate effects (if any)).

"**Company Options**" shall mean any options, rights or warrants to purchase Company Shares.

"**Company Share**" shall mean an ordinary share of common stock, par value $0.001 per share, in the share capital of the Company.

"**Company Shareholders**" shall mean holders of Company Shares in their capacities as such.

"**Company Termination Fee**" shall mean an amount equal to $375,000.

"**Contract**" shall mean any written contract, subcontract, agreement, commitment, note, bond, mortgage, indenture or lease.

"**Exchange Act**" shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules and regulations thereto.

"**Excluded Shares**" shall mean (i) Company Shares owned by Acquisition, any of its Affiliates (such as the Principal Shares) or the Company (as treasury shares, if any), in each case immediately prior to the Effective Time and/or (ii) Dissenting Shares.

"**GAAP**" shall mean generally accepted accounting principles, as applied in the United States.

"**Governmental Authority**" shall mean any government, any governmental or regulatory entity or body (including a securities exchange), department, commission, board, agency or instrumentality, and any court, tribunal or judicial body of competent jurisdiction.

"**IRS**" shall mean the United States Internal Revenue Service or any successor thereto.

"**Knowledge**" shall mean, (i) with respect to the Company, with respect to any matter in question, shall mean the actual knowledge of the individuals listed in Section 1.1 of the Company Disclosure Letter, as of the date of this Agreement, and (ii) with respect to any of Acquisition or the Principal Shareholders, the actual knowledge of any of the shareholders, officers or directors of Acquisition or the Principal Shareholders.

"**Law**" shall mean any and all applicable law, statute, constitution, principle of common law, ordinance, code, rule, regulation, ruling or other legal requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Authority.

"**Legal Proceeding**" shall mean any lawsuit, litigation or other similarly formal legal proceeding brought by or pending before any Governmental Authority.

"**Lien**" shall mean any lien, pledge, hypothecation, charge, mortgage, security interest, encumbrance, or community property interest.

"**Material Contract**" shall mean any "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC.

"**NASDAQ**" shall mean the NASDAQ Stock Market.

"**Order**" shall mean any order, judgment, decision, decree, injunction, ruling, writ or assessment of any Governmental Authority (whether temporary, preliminary or permanent) that is binding on any Person or its property under applicable Law.

"**Permitted Liens**" shall mean any of the following: (i) Liens for Taxes, assessments and governmental charges or levies either not yet delinquent or which are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established on the consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP as adjusted in the ordinary course of business through the Effective Time; (ii) mechanics, carriers', workmen's, warehouseman's, repairmen's, materialmen's or other Liens that are not yet due or that are being contested in good faith and by appropriate proceedings; (iii) leases and subleases (other

than capital leases and leases underlying sale and leaseback transactions) and non-exclusive licenses; (iv) Liens imposed by applicable Law (other than Tax Law) which are not currently violated by the current use or occupancy of any real property or the operation of the business thereon; (v) pledges or deposits to secure obligations under workers' compensation Laws or similar legislation or to secure public or statutory obligations; (vi) pledges and deposits to secure the performance of bids, trade contracts, leases, surety and appeal bonds, performance bonds and other obligations of a similar nature, in each case in the ordinary course of business consistent with past practice; (vii) defects, imperfections or irregularities in title, easements, covenants and rights of way (unrecorded and of record) and other similar restrictions, and zoning, building and other similar codes or restrictions, in each case that do not adversely affect in any material respect the current use of the applicable property owned, leased, used or held for use by the Company or any of its Subsidiaries; (viii) Liens the existence of which are disclosed in the notes to the consolidated financial statements of the Company included in the Company's Annual Report on Form 10-K for the fiscal year ended 31 December 2014; (ix) Liens which do not materially and adversely affect the use or operation of the property subject thereto; (x) any other Liens that do not secure a liquidated amount, that have been incurred or suffered in the ordinary course of business consistent with past practice and that have not had a Company Material Adverse Effect; (xi) Liens arising in connection with the VIE Agreements; and (xii) Liens described in Section 1.1 of the Company Disclosure Letter.

"**Person**" shall mean any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or Governmental Authority.

"**PRC**" shall mean the People's Republic of China excluding, for the purposes of this Agreement only, the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan.

"**Principal Shares**" shall mean the Company Shares beneficially owned (as determined pursuant to Rule 13d-3 under the Exchange Act) by any Principal Shareholders.

"**Principal Shareholders**" shall mean Mr. Minhua Chen and Mrs. Yanling Fan.

"**Representatives**" shall mean, with respect to any Person, such Person's Affiliates and such Person and its Affiliates' respective shareholders, directors, officers or other employees, or investment bankers, attorneys or other authorized advisors, agents or representatives.

"**RMB**" shall mean *renminbi*, the legal currency of the PRC.

"**Sarbanes-Oxley Act**" shall mean the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules or regulations thereto.

"**SEC**" shall mean the United States Securities and Exchange Commission or any successor thereto.

"**Securities Act**" shall mean the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules or regulations thereto.

"**Subsidiary**" of any Person shall mean (i) a corporation more than fifty percent (50%) of the combined voting power of the outstanding voting stock of which is owned, directly or indirectly, by such Person or by one of more other Subsidiaries of such Person or by such Person and one or more other Subsidiaries thereof, (ii) a partnership of which such Person, or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, is the general partner and has the power to direct the policies, management and affairs of such partnership, (iii) a limited liability company of which such Person or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, is the managing member and has the power to direct the policies, management and affairs of such company or (iv) any other Person (other than a corporation, partnership or limited liability company) in which such Person, or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, has at least a majority ownership and power to direct the policies, management and affairs thereof, or (v) any Person such Person controls through VIE Agreements.

"**Superior Proposal**" shall mean any bona fide written Acquisition Proposal for an Acquisition Transaction (with all percentages included in the definition of Acquisition Transaction increased to 50%) that the Company

Board reasonably determines (upon recommendation of the Special Committee, if in existence), in its good faith judgment, after consultation with its financial advisor and outside legal counsel, and taking into account relevant legal, financial and regulatory aspects of such offer or proposal (including the likelihood and timing of the consummation thereof based upon, among other things, the availability of financing and the expectation of obtaining required approvals), the identity of the Person or group making the offer or proposal and any changes to the terms of this Agreement proposed by Acquisition in response to such offer or proposal or otherwise, to be (i) more favorable, including from a financial point of view, to the Company Shareholders (other than the Principal Shareholders) than the Merger and (ii) reasonably likely to be consummated, provided however in the event of a proposal other than a cash proposal by means of any merger, consolidation, share exchange, business combination, scheme of arrangement, amalgamation, recapitalization, liquidation, dissolution or other similar transaction the proposal shall be from a party whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Company or to which 20% or more of the total revenue, operating income or EBITDA of the Company.

"**Tax**" shall mean any and all PRC and non-PRC taxes, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes, together with all interest, penalties and additions imposed with respect to such amounts.

"**VIE Agreements**" shall mean agreements between Fujian Jiaoguang or any variable interest entity and the Company or any of its Affiliates.

Section 1.2 Additional Definitions. The following capitalized terms shall have the respective meanings ascribed thereto in the respective sections of this Agreement.

"**Acquisition**" shall have the meaning set forth in the preamble.

"**Agreement**" shall have the meaning set forth in the preamble.

"**Alternative Acquisition Agreement**" shall have the meaning set forth in Section 5.3(b).

"**Arbitrator**" shall have the meaning set forth in Section 10.9.

"**Articles of Merger**" shall have the meaning set forth in Section 2.3.

"**Capitalization Date**" shall have the meaning set forth in Section 3.7.

"**Certificates**" shall have the meaning set forth in Section 2.8(c).

"**Closing**" shall have the meaning set forth in Section 2.2.

"**Closing Date**" shall have the meaning set forth in Section 2.2.

"**Company**" shall have the meaning set forth in the preamble.

"**Company Board Recommendation**" shall have the meaning set forth in Section 5.3(a).

"**Company Board Recommendation Change**" shall have the meaning set forth in Section 5.3(b).

"**Company Securitie**s" shall have the meaning set forth in Section 3.7(b).

"**Company SEC Reports**" shall have the meaning set forth in Section 3.9.

"**Company Shareholders Meeting**" shall have the meaning set forth in Section 7.3(d).

"**Consent**" shall have the meaning set forth in Section 3.6.

"**Dissenting Shareholder**" shall have the meaning set forth in Section 2.7(c).

"**Dissenting Shares**" shall have the meaning set forth in Section 2.7(c).

"**Effective Time**" shall have the meaning set forth in Section 2.3.

"**Exchange Fund**" shall have the meaning set forth in Section 2.8(b).

"**Guarantor**" shall have the meaning set forth in the preamble.

"**HKIAC**" shall have the meaning set forth in Section 10.9.

"**Indemnified Person**" shall have the meaning set forth in Section 7.7(a).

"**In-the-Money Vested Company Option**" shall have the meaning set forth in Section 2.7(d).

"**Limited Guarantee**" shall have the meaning set forth in the preamble.

"**Merger**" shall have the meaning set forth in the preamble.

"**NRS**" shall have the meaning set forth in the preamble.

"**Option Consideration**" shall have the meaning set forth in Section 2.7(d).

"**Outside Date**" shall have the meaning set forth in Section 9.1(b).

"**Paying Agent**" shall have the meaning set forth in Section 2.8(a).

"**Permits**" shall have the meaning set forth in Section 3.14.

"**Per Share Merger Consideration**" shall have the meaning set forth in Section 2.7(a)(ii).

"**Preliminary Proxy Statement**" shall have the meaning set forth in Section 7.3(a).

"**Proxy Statement**" shall have the meaning set forth in Section 7.3(a).

"**Recommendation Change Notice**" shall have the meaning set forth in Section 5.3(c).

"**Requisite Shareholder Approval**" shall have the meaning set forth in Section 3.4.

"**Rules**" shall have the meaning set forth in Section 10.9.

"**Schedule 13E-3**" shall have the meaning set forth in Section 3.6.

"**Secretary of State**" shall have the meaning set forth in Section 2.3.

"**Special Committee**" shall have the meaning set forth in the preamble.

"**Subsidiary Securities**" shall have the meaning set forth in Section 3.8(c).

"**Surviving Company**" shall have the meaning set forth in Section 2.1.

"**Takeover Statutes**" shall have the meaning set forth in Section 3.19.

"**Tax Returns**" shall have the meaning set forth in Section 3.13(a).

"**Voting Agreement**" shall have the meaning set forth in the preamble.

Section 1.3 Certain Interpretations.

(a) Unless otherwise indicated, all references herein to Articles, Sections, Annexes, Exhibits or Schedules, shall be deemed to refer to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement, as applicable.

(b) Unless otherwise indicated, the words "include," "includes" and "including," when used herein, shall be deemed in each case to be followed by the words "without limitation."

(c) The table of contents and headings set forth in this Agreement are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Agreement or any term or provision hereof.

(d) Unless otherwise indicated, all references herein to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person unless otherwise indicated or the context otherwise requires.

(e) Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

(f) Any dollar or percentage thresholds set forth herein shall not be used as a benchmark for the determination of what is or is not "material" or a "Company Material Adverse Effect" under this Agreement.

(g) References to "$" refer to U.S. dollars.

(h) When used herein, the word "extent" and the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such word or phrase shall not simply mean "if."

(i) The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

ARTICLE II
THE MERGER

Section 2.1 The Merger. Upon the terms and subject to the satisfaction or, if permissible, waiver of the conditions set forth in this Agreement and the applicable provisions of the NRS, at the Effective Time, Acquisition shall be merged with and into the Company, the separate corporate existence of Acquisition shall thereupon cease and the Company shall continue as the surviving company of the Merger. The Company as the surviving company of the Merger, is sometimes referred to herein as the "**Surviving Company**".

Section 2.2 The Closing. Unless this Agreement shall have been terminated in accordance with Article IX, the closing of the Merger (the "**Closing**") will occur at the offices of Sidley Austin LLP, Suite 2009, 5 Corporate Avenue, 150 Hubin Road, Shanghai, China on a date and at a time to be agreed upon by Acquisition and the Company, which date shall be no later than the fifth (5^{th}) Business Day after the satisfaction or waiver of the last to be satisfied of the conditions set forth in Article VIII (excluding conditions that by their terms are to be satisfied on the Closing Date, but subject to the satisfaction or waiver of such conditions at the Closing), or at such other location, date and time as Acquisition and the Company shall mutually agree upon in writing. The date upon which the Closing shall actually occur pursuant hereto is referred to herein as the "**Closing Date**".

Section 2.3 The Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Acquisition and the Company shall cause the Merger to be consummated under the NRS by executing and filing the Articles of Merger ("**Articles of Merger**"), with the Secretary of State of Nevada (the "**Secretary of State**") in accordance with Section 92A.200 of the NRS, together with such other appropriate documents, in such forms as are required by, and executed in accordance with, the applicable provisions of the NRS. The Merger shall become effective on the date and at such time as the Articles of Merger shall have been duly filed with the Secretary of State or such later time as may be agreed in writing by Acquisition and the Company and specified in the Articles of Merger (the effective date and time of the Merger being referred to herein as the "**Effective Time**").

Section 2.4 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement and the applicable provisions of the NRS. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all of the property, rights, privileges, powers and franchises of the Company and Acquisition shall vest in the Surviving Company, and all debts, liabilities and duties of the Company and Acquisition shall become the debts, liabilities and duties of the Surviving Company.

Section 2.5 Articles of Incorporation; Bylaws.

(a) Articles of Incorporation. At the Effective Time, subject to the provisions of Section 7.7, the articles of incorporation of Acquisition, as in effect immediately prior to the Effective Time, shall become the articles of incorporation of the Surviving Company (save and except that references therein to the name and the authorized

capital of Acquisition shall be amended to describe correctly the name and authorized capital of the Surviving Company) until thereafter amended in accordance with the applicable provisions of the NRS and such articles of incorporation.

(b) Bylaws. At the Effective Time, subject to the provisions of Section 7.7(a), the bylaws of Acquisition, as in effect immediately prior to the Effective Time, shall become the bylaws of the Surviving Company (save and except that references therein to the name shall be amended to describe correctly the name of the Surviving Company) until thereafter amended in accordance with the applicable provisions of the NRS and such bylaws.

Section 2.6 Directors and Officers.

(a) Directors. At the Effective Time, the initial directors of the Surviving Company shall be the directors of Acquisition immediately prior to the Effective Time, each to hold office until their respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the bylaws of the Surviving Company.

(b) Officers. At the Effective Time, the initial officers of the Surviving Company shall be the officers of the Company immediately prior to the Effective Time, each to hold office until their respective successors are duly appointed or until their earlier death, resignation or removal in accordance with the bylaws of the Surviving Company.

Section 2.7 Effect on Share Capital of the Company.

(a) Share Capital. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, by virtue of the Merger and without any action on the part of Acquisition, the Company or the holders of any of the following securities, the following shall occur:

(i) Share Capital of Acquisition. Each common share, par value US$0.001 per share, in the share capital of Acquisition that is issued and outstanding immediately prior to the Effective Time shall be cancelled.

(ii) Company Shares. Each Company Share other than Excluded Shares that is issued and outstanding immediately prior to the Effective Time shall be canceled and cease to exist and automatically converted, subject to Section 2.7(b), into the right to receive $3.32 in cash without interest (the "**Per Share Merger Consideration**") payable in the manner provided in Section 2.8 (or in the case of a lost, stolen or destroyed Certificate, upon delivery of an affidavit in the manner provided in Section 2.11).

(iii) Dissenting Shares. Each Dissenting Share that is issued and outstanding immediately prior to the Effective Time shall be cancelled and cease to exist, in consideration for the right to receive the fair value of such Dissenting Share as provided in Section 2.7(c), and the register of shareholders of the Company shall be amended accordingly.

(iv) Principal Shares. Each Principal Share that is issued and outstanding immediately prior to the Effective Time shall remain in effect as issued and outstanding shares of the Company, fully paid and non-assessable. Such share(s) of common stock shall be the only issued and outstanding share(s) of capital stock of the Surviving Company, which shall be reflected in the stock ledger of the Surviving Company.

(b) Certain Adjustments. The Per Share Merger Consideration shall be adjusted appropriately to reflect the effect of any share split, reverse share split, share dividend (including any dividend or distribution of securities convertible into Company Shares), reclassification, combination, exchange of shares, or other like change with respect to Company Shares occurring, or with a record date, on or after the date hereof and prior to the Effective Time, and such adjustment to the Per Share Merger Consideration shall provide to the holders of Company Shares the same economic effect as contemplated by this Agreement prior to such action.

(c) Statutory Dissenters Rights. Notwithstanding anything in this Agreement to the contrary, any Company Shares that are issued and outstanding immediately prior to the Effective Time and are held by a Company Shareholder (each, a "**Dissenting Shareholder**") who has validly exercised and not lost its rights to dissent from the Merger pursuant to the NRS (collectively, the "**Dissenting Shares**") shall not be converted into or exchangeable for or represent the right to receive the Per Share Merger Consideration (except as provided in this Section 2.7(c)), and shall entitle such Dissenting Shareholder only to payment of the fair value of such Dissenting Shares as determined

in accordance with the NRS. If any Dissenting Shareholder shall have effectively withdrawn (in accordance with the NRS) or lost the right to dissent, then upon the occurrence of such event, the Dissenting Shares held by such Dissenting Shareholder shall cease to be Excluded Shares, and shall be cancelled and converted into and represent the right to receive the Per Share Merger Consideration at the Effective Time, pursuant to Section 2.7(a)(ii).

(d) Company Options. Each outstanding, unexercised and vested Company Options or, as applicable, the vested portion of a Company Option with a per share exercise price less than the Per Share Merger Consideration (each an **"In-the-Money Vested Company Option"**) shall, automatically and without any required action on the part of the holder thereof, be converted into the right to receive an amount in cash equal to the excess of (i) the Per Share Merger Consideration over (ii) the exercise price of such In-the-Money Vested Company Option, multiplied by the number of Company Shares underlying such In-the-Money Vested Company Option (the "**Option Consideration**"). Each vested Company Option outstanding and unexercised immediately prior to the Effective Time with a per share exercise price greater than or equal to the Per Share Merger Consideration shall automatically be cancelled as of the Effective Time without any consideration payable in respect thereof. On the Closing Date, or as promptly as practicable thereafter (but in no event later than five days thereafter), Acquisition shall pay to each holder of an In-the-Money Vested Company Option the aggregate Option Consideration payable to such holder of In-the-Money Vested Company Options pursuant to this Section 2.7(d). Such cash consideration shall be rounded down to the nearest cent and Acquisition shall be entitled to deduct and withhold from such cash consideration all amounts required to be deducted and withheld under the Code, the rules and regulations promulgated thereunder, or any other applicable Laws. To the extent that amounts are so withheld by Acquisition, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the In-the-Money Vested Company Options with respect to whom such amounts were withheld by Acquisition. Notwithstanding anything contained herein to the contrary, no Option Consideration shall be paid to a holder of Principal Shares.

Section 2.8 Exchange of Certificates.

(a) Paying Agent. Prior to the Closing, Acquisition shall select a bank, transfer agent or trust company reasonably acceptable to the Company to act as the paying agent for the Merger (the "**Paying Agent**") and, in connection therewith, shall enter into an agreement with the Paying Agent in a form reasonably acceptable to the Company.

(b) Exchange Fund. Prior to the Effective Time, Acquisition shall deposit (or cause to be deposited) with the Paying Agent, for payment to the holders of Company Shares an amount of cash equal to the aggregate consideration to which holders of Company Shares become entitled under this Article II. Until disbursed in accordance with the terms and conditions of this Agreement, such funds shall be invested by the Paying Agent, as directed by Acquisition, in obligations of or guaranteed by the United States of America or obligations of an agency of the United States of America which are backed by the full faith and credit of the United States of America (such cash amount being referred to herein as the "**Exchange Fund**"). Any interest and other income resulting from such investments shall be paid to Acquisition. To the extent that there are any losses with respect to any investments of the Exchange Fund, or the Exchange Fund diminishes for any reason below the level required for the Paying Agent to promptly pay the cash amounts contemplated by this Article II, Acquisition shall promptly replace or restore the cash in the Exchange Fund so as to ensure that the Exchange Fund is at all times maintained at a level sufficient for the Paying Agent to make such payments contemplated by this Article II.

(c) Payment Procedures. Promptly following the Effective Time (and in any event within three Business Days), the Surviving Company shall cause the Paying Agent to mail or otherwise disseminate to each holder of record (as of immediately prior to the Effective Time) of (i) a certificate or certificates (the "**Certificates**") which immediately prior to the Effective Time represented outstanding Company Shares (A) a letter of transmittal in customary form (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Paying Agent, and/or (B) instructions for use in effecting the surrender of the Certificates in exchange for the Per Share Merger Consideration payable in respect thereof pursuant to the provisions of this Article II. Upon surrender of Certificates for cancellation to the Paying Agent or to such other agent or agents as may be appointed by Acquisition, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, the holders of such Certificates shall be entitled to receive in exchange therefor an amount in cash equal to the Per Share Merger Consideration to which the holder thereof is entitled pursuant to Section 2.7(a)(ii), and the Certificates so surrendered shall forthwith be canceled. Upon receipt of an "agent's message" by the Paying Agent (or such other evidence, if any, of transfer as

the Paying Agent may reasonably request) in the case of a book entry transfer of uncertificated Shares, the holders of such uncertificated Shares shall be entitled to receive in exchange for the cancellation of such uncertificated Shares an amount in cash equal to the Per Share Merger Consideration to which the holder thereof is entitled pursuant to Section 2.7(a)(ii), and the uncertificated Shares shall forthwith be canceled. The Paying Agent shall accept such Certificates and transferred uncertificated Shares upon compliance with such reasonable terms and conditions as the Paying Agent may impose to effect an orderly exchange thereof in accordance with normal exchange practices. No interest shall be paid or accrued for the benefit of holders of the Certificates and uncertificated Shares on the Per Share Merger Consideration payable upon the surrender of such Certificates and uncertificated Shares pursuant to this Section 2.8. Until so surrendered, outstanding Certificates and uncertificated Shares shall be deemed from and after the Effective Time, to evidence only the right to receive the Per Share Merger Consideration, without interest thereon, payable in respect thereof pursuant to the provisions of this Article II.

(d) Transfers of Ownership. In the event that a transfer of ownership of Company Shares is not registered in the share transfer books or register of shareholders of the Company, or if the Per Share Merger Consideration is to be paid in a name other than that in which the Company Shares (whether represented by Certificates or uncertificated Shares) are registered in the share transfer books or register of shareholders of the Company, the Per Share Merger Consideration may be paid to a Person other than the Person in whose name Company Share (whether represented by a Certificate or an uncertificated Share) so cancelled is registered in the share transfer books or register of shareholders of the Company only if such Certificate or uncertificated Share is properly endorsed and otherwise in proper form for surrender and transfer and the Person requesting such payment has paid to Acquisition (or any agent designated by Acquisition) any transfer Taxes required by reason of the payment of the Per Share Merger Consideration to a Person other than the registered holder of such Certificate or uncertificated Shares, or established to the satisfaction of Acquisition (or any agent designated by Acquisition) that such transfer Taxes have been paid or are otherwise not payable.

(e) Required Withholding. Each of the Paying Agent and the Surviving Company (and any other Person that has a withholding obligation pursuant to this Agreement) shall only be entitled to deduct and withhold or cause to be deducted and withheld from any cash amounts payable pursuant to this Agreement such amounts as may be required to be deducted or withheld therefrom under applicable Tax Laws and that are either (i) U.S. federal backup withholding tax to a payee that does not provide the required documentation with respect to its U.S. tax status. In the event that the Paying Agent, or the Surviving Company (or other Person) determines that any such permitted deduction or withholding is required to be made from any amounts payable pursuant to this Agreement, the Paying Agent or the Surviving Company (or other Person), as applicable, shall promptly inform the Special Committee and the other parties hereto of such determination and provide them with a reasonably detailed explanation of such determination and the parties hereto shall consult with each other in good faith regarding such determination. To the extent that such amounts are so deducted, withheld and remitted to the applicable Governmental Authority, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

(f) No Liability. Notwithstanding anything to the contrary set forth in this Agreement, none of the Paying Agent, the Surviving Company or any other party hereto shall be liable to a holder of Company Shares for any amount properly paid to a public official pursuant to any applicable abandoned property, escheat or similar Law.

(g) Distribution of Exchange Fund to Surviving Company. Any portion of the Exchange Fund that remains undistributed to the holders of the Certificates, uncertificated Shares on the date that is twelve (12) months after the Effective Time shall be delivered to the Surviving Company upon demand, and any holders of Company Shares that were issued and outstanding immediately prior to the Effective Time who have not theretofore surrendered their Certificates, uncertificated Shares representing such Company Shares for exchange pursuant to the provisions of this Section 2.8 shall thereafter look for payment of the Per Share Merger Consideration payable in respect of the Company Shares represented by such Certificates, uncertificated Shares solely to the Surviving Company, as general creditors thereof, for any claim to the applicable Per Share Merger Consideration to which such holders may be entitled pursuant to the provisions of this Article II. Any portion of the Exchange Fund remaining unclaimed by Company Shareholders as of a date which is immediately prior to such time as such amounts would otherwise escheat to or become property of any Governmental Authority shall, to the extent permitted by applicable Law, become the property of the Surviving Company free and clear of any claims or interest of any person previously entitled thereto.

Section 2.9 No Further Ownership Rights. From and after the Effective Time, all Company Shares, except for the Principal Shares, shall no longer be outstanding and shall automatically be cancelled, retired and cease to exist, and each holder of a Certificate, uncertificated Shares theretofore representing any Company Shares shall cease to have any rights with respect thereto, except the right to receive the Per Share Merger Consideration payable therefor upon the surrender thereof in accordance with the provisions of Section 2.8. The Per Share Merger Consideration paid in accordance with the terms of this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to such Company Shares. From and after the Effective Time, there shall be no further registration of transfers on the records of the Surviving Company of Company Shares that were issued and outstanding immediately prior to the Effective Time, other than transfers to reflect, in accordance with customary settlement procedures, trades effected prior to the Effective Time. If, after the Effective Time, Certificates, uncertificated Shares are presented to the Surviving Company for any reason, they shall be canceled and exchanged as provided in this Article II.

Section 2.10 Untraceable and Dissenting Shareholders. Remittances for the Per Share Merger Consideration shall not be sent to Company Shareholders who are untraceable unless and until, except as provided below, they notify the Paying Agent of their current contact details prior to the Effective Time. A Company Shareholder will be deemed to be untraceable if (a) he has no registered address in the register of shareholders maintained by the Company; (b) on the last two consecutive occasions on which a dividend has been paid by the Company a check payable to such Company Shareholder either (i) has been sent to such Company Shareholder and has been returned undelivered or has not been cashed; or (ii) has not been sent to such shareholder because on an earlier occasion a check for a dividend so payable has been returned undelivered, and in any such case, no valid claim in respect thereof has been communicated in writing to the Company; or (c) notice of the Company Shareholders Meeting convened to vote on the Merger has been sent to such Company Shareholder and has been returned undelivered. Monies due to Dissenting Shareholders and Company Shareholders who are untraceable shall be returned to the Surviving Company. Monies unclaimed after a period of two years from the date of the notice of the Company Shareholders Meeting shall be forfeited and shall revert to the Surviving Company. Dissenting Shareholders and Company Shareholders who are untraceable who subsequently wish to receive any monies otherwise payable in respect of the Merger within applicable time limits or limitation periods should contact the Surviving Company.

Section 2.11 Lost, Stolen or Destroyed Certificates. In the event that any Certificates shall have been lost, stolen or destroyed, the Paying Agent shall issue in exchange for such lost, stolen or destroyed Certificates, upon the making of an affidavit of that fact by the holder thereof, the Per Share Merger Consideration payable in respect thereof pursuant to Section 2.7.

Section 2.12 Fair Value. Acquisition and the Company respectively agree that the Per Share Merger Consideration represent the fair value of the Company Shares.

Section 2.13 Necessary Further Actions. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Company with full right, title and possession to all assets, property, rights, privileges, powers and franchises of the Company and Acquisition, the directors and officers of the Company and Acquisition shall take any such lawful and necessary action.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except (i) as set forth in the Company Disclosure Letter, or (ii) as set forth in the Company SEC Reports filed by the Company with the SEC (other than in any “risk factor” disclosure or any other forward looking statements or other disclosures included in such documents that are generally cautionary or forward-looking in nature), the Company hereby represents and warrants to Acquisition as follows:

Section 3.1 Organization and Qualification. The Company and each of its Subsidiaries is an entity duly organized and validly existing under the Laws of the jurisdiction of its organization and has the requisite corporate or similar power and authority to conduct its business as it is presently being conducted and to own, lease or operate its properties and assets, except where the failure to be so organized or existing or to have such power and authority would not have a Company Material Adverse Effect. The Company and each of its Subsidiaries is duly qualified to do business and is in good standing (to the extent either such concept is recognized under applicable Law) in each jurisdiction where the character of its properties owned or leased or the nature of its activities make

such qualification necessary, except where the failure to be so qualified or in good standing has not had a Company Material Adverse Effect.

Section 3.2 Corporate Power; Enforceability. The Company has all requisite corporate power and authority to execute and deliver this Agreement, to perform its covenants and obligations under this Agreement and, subject to obtaining the Requisite Shareholder Approval, to consummate the transactions contemplated by this Agreement. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement and the consummation by the Company of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of the Company and no additional corporate proceedings on the part of the Company are necessary to authorize the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement or the consummation of the transactions contemplated by this Agreement other than obtaining the Requisite Shareholder Approval and filing the Articles of Merger with the Secretary of State. This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Acquisition, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity.

Section 3.3 Board Actions. At a meeting duly called and held prior to the execution of this Agreement, the Company Board (acting upon the recommendation of the Special Committee) (a) approved this Agreement and approved the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (b) resolved to recommend that the holders of Company Shares authorize and approve this Agreement and the Merger.

Section 3.4 Requisite Shareholder Approval. The affirmative vote of Company Shareholders representing a majority or more of the issued and outstanding Company Shares present and voting in person or by proxy as a single class at the Company Shareholders Meeting (the "**Requisite Shareholder Approval**") is the only vote or approval of the holders of any class or series of share capital of the Company that is necessary to authorize and approve this Agreement and consummate the Merger.

Section 3.5 Non-Contravention. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement and the consummation by the Company of the transactions contemplated by this Agreement do not (a) violate or conflict with any provision of the articles of incorporation, bylaws or other organizational documents of the Company, (b) subject to obtaining such Consents set forth in Section 3.5 of the Company Disclosure Letter, violate, conflict with or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any Material Contract, (c) assuming the Consents referred to in Section 3.5 of the Company Disclosure Letter are obtained or made and subject to obtaining the Requisite Shareholder Approval, violate or conflict with any Law or Order applicable to the Company or any of its Subsidiaries or by which any of their properties or assets are bound or (d) result in the creation of any Lien (other than Permitted Liens) upon any of the properties or assets of the Company or any of its Subsidiaries, except in the case of each of clauses (b), (c) and (d) above, for such violations, conflicts, defaults, terminations, accelerations or Liens which would not have a Company Material Adverse Effect or prevent or materially delay the consummation by the Company of the transactions contemplated hereby or the performance by the Company of its covenants and obligations hereunder.

Section 3.6 Required Governmental Approvals. No consent, approval, Order or authorization of, or filing or registration with, or notification to (any of the foregoing being referred to herein as a "**Consent**"), any Governmental Authority is required on the part of the Company in connection with the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations hereunder and the consummation by the Company of the transactions contemplated hereby, except (a) the filing and registration of the Articles of Merger with the Secretary of State (b) such filings and approvals as may be required by any United States federal or state securities laws, including compliance with any applicable requirements of the Exchange Act, including the joining of the Company in the filing of the Rule 13e-3 Transaction Statement on Schedule 13E-3 (including any amendments or supplements thereto, the "**Schedule 13E-3**") and the furnishing of Form 8-K with the Proxy

Statement (c) such filings as may be required for compliance with the rules and regulations of the NASDAQ, and (d) such other Consents, the failure of which to obtain would not have a Company Material Adverse Effect or prevent or materially delay the consummation by the Company of the transactions contemplated hereby or the ability of the Company to perform its covenants and obligations hereunder.

Section 3.7 Company Capitalization.

(a) The authorized share capital of the Company consists of 10,000,000 shares of preferred stock, par value $0.0001 and 100,000,000 Company Shares, par value $.001 per share. As of the close of business in New York City on March 8, 2016 (the "**Capitalization Date**"): 3,914,580 Company Shares were issued and outstanding and none of the preferred shares were issued and outstanding. All outstanding Company Shares are, when issued in accordance with the terms thereof, validly issued, fully paid, non-assessable and free of any preemptive rights. Since the Capitalization Date, the Company has not issued any Company Shares.

(b) Except as set forth in the Section 3.7 of the Company Disclosure Letter, there are (i) no outstanding shares of capital stock of, or other equity or voting interest in, the Company, (ii) no outstanding securities of the Company convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (iii) no outstanding options, warrants, rights or other commitments or agreements to acquire from the Company, or that obligates the Company to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (iv) no obligations of the Company to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, the Company (the items in clauses (i), (ii), (iii) and (iv), together with the capital stock of the Company, being referred to collectively as "**Company Securities**") and (v) no other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any Company Securities. Neither the Company nor any of its Subsidiaries is a party to any Contract which obligates the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Company Securities.

Section 3.8 Subsidiaries.

(a) Section 3.8 of the Company Disclosure Letter contains a complete and accurate list of the name, jurisdiction of organization, capitalization and schedule of shareholders of each Subsidiary of the Company.

(b) All of the outstanding capital stock of, or other equity or voting interest in, each Subsidiary of the Company (i) have been duly authorized, validly issued and are fully paid and nonassessable and (ii) are owned, directly or indirectly, by the Company, free and clear of all Liens (other than Permitted Liens) and free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other equity or voting interest) that would prevent the operation by the Surviving Company or such Subsidiary's business as presently conducted.

(c) There are no outstanding (i) securities of the Company or any of its Subsidiaries convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, any Subsidiary of the Company, (ii) options, warrants, rights or other commitments or agreements to acquire from the Company or any of its Subsidiaries, or that obligate the Company or any of its Subsidiaries to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, any Subsidiary of the Company, (iii) obligations of the Company to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, any Subsidiary of the Company (the items in clauses (i), (ii) and (iii), together with the capital stock of the Subsidiaries of the Company, being referred to collectively as "**Subsidiary Securities**"), or (iv) other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any shares of any Subsidiary of the Company. Neither the Company nor any of its Subsidiaries is a party to any Contract which obligates the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any outstanding Subsidiary Securities, except in connection with the VIE Agreements.

Section 3.9 Company SEC Reports. Since December 31, 2014, the Company has filed all material forms, reports and documents with the SEC that have been required to be filed by it under applicable Laws prior to the date hereof (all such forms, reports and documents, together with all exhibits and schedules thereto, the "**Company**

SEC Reports"). As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), (a) each Company SEC Report complied as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date such Company SEC Report was filed, and (b) each Company SEC Report did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. True and correct copies of all Company SEC Reports filed prior to the date hereof have been furnished to Acquisition or are publicly available in the Electronic Data Gathering, Analysis and Retrieval (EDGAR) database of the SEC. None of the Company's Subsidiaries is required to file any forms, reports or other documents with the SEC.

Section 3.10 Company Financial Statements. The consolidated financial statements of the Company and its Subsidiaries filed with the Company SEC Reports (including the related notes an schedules) have been prepared (or in the case of Company SEC Reports filed after the date hereof, will be prepared) in accordance with GAAP consistently applied during the periods and at the dates involved, and fairly present (or in the case of Company SEC Reports filed after the date hereof, will fairly present) in all material respects the consolidated financial position of the Company and its Subsidiaries as of the dates thereof and the consolidated results of operations and cash flows for the periods then ended (subject, in the case of unaudited quarterly statements, to normal year-end adjustments).

Section 3.11 Absence of Certain Changes.

(a) Since the Company Balance Sheet Date through the date hereof, except for actions taken or not taken in connection with the transactions contemplated by this Agreement, the business of the Company and its Subsidiaries has been conducted, in all material respects, in the ordinary course consistent with past practice, and there has not been or occurred, and there does not exist, any Company Material Adverse Effect that is continuing.

(b) Since the Company Balance Sheet Date through the date hereof, neither the Company nor any of its Subsidiaries has taken any action that would be prohibited by Section 5.1(b) if such section had been in effect since the Company Balance Sheet Date.

Section 3.12 Material Contracts.

(a) Section 3.12(a) of the Company Disclosure Letter contains a complete and accurate list of all Material Contracts to or by which the Company or any of its Subsidiaries is a party as of the date of this Agreement. As of the date hereof, true and complete copies of all Material Contracts have been (i) publicly filed with the SEC or (ii) made available to Acquisition.

(b) Each Material Contract is valid and binding on the Company (and/or each such Subsidiary of the Company party thereto) and, to the Knowledge of the Company, each other party thereto, and is in full force and effect, enforceable against the Company or each such Subsidiary of the Company party thereto, as the case may be, in accordance with its terms, except that such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (ii) is subject to general principles of equity. Neither the Company nor any of its Subsidiaries that is a party to a Material Contract, nor, to the Knowledge of the Company, any other party thereto, is in breach of, or default under, any such Material Contract, and no event has occurred that with notice or lapse of time or both would constitute such a breach or default thereunder by the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any other party thereto, except for such breaches and defaults that have not had a Company Material Adverse Effect.

Section 3.13 Tax Matters.

(a) The Company and each of its Subsidiaries (i) have timely filed (taking into account any extensions of time in which to file) all returns, estimates, claims for refund, information statements and reports or other similar documents with respect to Taxes (including amendments, schedules, or attachments thereto) relating to any and all Taxes ("**Tax Returns**") required to be filed with any Governmental Authority by any of them and all such filed Tax Returns are true, correct and complete in all material aspects and were prepared in compliance with all applicable Laws in all material aspects, (ii) have paid, or have adequately reserved (in accordance with GAAP) on the most recent financial statements contained in the Company SEC Reports for the payment of, all Taxes required to be paid through the Company Balance Sheet Date, and (iii) have not incurred any liability for Taxes since the Company

Balance Sheet Date other than in the ordinary course of business consistent with past practice. No deficiencies for any Taxes have been asserted in writing or assessed in writing, or to the Knowledge of the Company, proposed, against the Company or any of its Subsidiaries that are not subject to adequate reserves on the consolidated financial statements of the Company and its Subsidiaries (in accordance with GAAP) as adjusted in the ordinary course of business through the Effective Time, nor has the Company or any of its Subsidiaries executed any waiver of any statute of limitations on or extending the period for the assessment or collection of any Tax. There are no Liens (other than Permitted Liens) on any of the assets of the Company or its Subsidiaries for Taxes.

(b) The representations and warranties contained in this Section 3.13 are the only representations and warranties of the Company and its Subsidiaries with respect to Taxes, and no other representation or warranty contained in any other section of this Agreement shall apply to any such Tax matters.

Section 3.14 Permits. The Company and its Subsidiaries have, and are in compliance with the terms of, all permits, licenses, authorizations, consents, approvals and franchises from Governmental Authorities required to conduct their businesses as currently conducted ("**Permits**"), and no suspension or cancellation of any such Permits is pending or, to the Knowledge of the Company, threatened, except for such noncompliance, suspensions or cancellations that have not had a Company Material Adverse Effect.

Section 3.15 Compliance with Laws. The Company and each of its Subsidiaries is in compliance with all Law and Orders applicable to the Company and its Subsidiaries, except for such noncompliance that has not had a Company Material Adverse Effect. No representation or warranty is made in this Section 3.15 with respect to (a) compliance with the Exchange Act, to the extent such compliance is covered in Section 3.6 and Section 3.9 or (b) applicable laws with respect to Taxes, which are covered solely in Section 3.13.

Section 3.16 Litigation. There is no Legal Proceeding pending or, to the Knowledge of the Company, threatened in writing against the Company, any of its Subsidiaries or any of the respective properties of the Company or any of its Subsidiaries that has had a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is subject to any outstanding Order that has had a Company Material Adverse Effect.

Section 3.17 Related Party Transactions. None of the directors or executive officers of the Company or individuals owning, directly or indirectly, an interest in the voting power of the Company that gives them significant influence over the Company and its Subsidiaries taken as a whole, since the Company Balance Sheet Date, has had any transaction with the Company or any of its Subsidiaries which is material to the Company and its Subsidiaries taken as a whole (other than employment relationship or serving as a director). The Company and its Subsidiaries have not, since the Company Balance Sheet Date, extended or maintained credit, arranged for the extension of credit or renewed an extension of credit in the form of a personal loan to or for any director or executive officer of the Company.

Section 3.18 Opinion of Financial Advisor. The Special Committee received the opinion of ROTH Capital Partners LLC, the financial advisor to the Special Committee, dated as of the date hereof, to the effect that, as of the date of this Agreement, the Per Share Merger Consideration to be received by the holders of Company Shares pursuant to this Agreement is fair from a financial point of view to such holders.

Section 3.19 Anti-Takeover Provisions. The Company is not party to a Shareholder rights agreement, "poison pill" or similar agreement or plan. None of the requirements or restrictions of (a) the Nevada "combinations with interested Shareholders" statutes, NRS 78.411 through 78.444, inclusive, or (b) the Nevada "acquisition of controlling interest" statutes, NRS 78.378 through 78.3793, inclusive (collectively, the "**Takeover Statutes**") would apply to prevent the consummation of any of the transactions contemplated by this Agreement, including the Merger.

Section 3.20 No Other Company Representations or Warranties. Except for the representations and warranties set forth in Article III, Acquisition hereby acknowledges and agrees that (a) neither the Company nor any of its Subsidiaries, nor any of their respective Representatives, has made or is making any other express or implied representation or warranty with respect to the Company or any of its Subsidiaries or their respective business or operations, including with respect to any information provided or made available to Acquisition or any of its Representatives, and (b) neither the Company nor any of its Subsidiaries, nor any of their respective Representatives, will have or be subject to any liability or indemnification obligation or other obligation of any kind or nature to Acquisition or any of its Representatives, resulting from the delivery, dissemination or any other distribution to Acquisition or any of its Representatives, or the use by Acquisition or any of its Representatives, of

any such information provided or made available to any of them by the Company or any of its Subsidiaries, or any of their respective Representatives, including any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material provided or made available to Acquisition or any of its Representatives, in "data rooms," confidential information memoranda or management presentations in anticipation or contemplation of the Merger or any other transactions contemplated by this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF ACQUISITION

Acquisition hereby represents and warrants to the Company as follows:

Section 4.1 Organization; Good Standing. Acquisition is duly organized and validly existing under the Laws of the State of Nevada and has the requisite corporate power and authority to conduct its business as it is presently being conducted and to own, lease or operate its properties and assets. Acquisition is duly qualified to do business and is in good standing (to the extent either such concept is recognized under applicable Law) in each jurisdiction where the character of its properties owned or leased or the nature of its activities makes such qualification necessary, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder. Acquisition has previously furnished to the Company a true and complete copy of the articles of incorporation and bylaws of Acquisition, each as amended or modified to date, as in effect as of the date of this Agreement. Such articles of incorporation and bylaws are in full force and effect as of the date hereof. Acquisition is not in violation of any provision of its articles of incorporation or bylaws in any material respect.

Section 4.2 Corporate Power; Enforceability. Acquisition has the requisite corporate power and authority to execute and deliver this Agreement, to perform covenants and obligations under this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement and the consummation by Acquisition of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate or other action on the part of Acquisition, and no other corporate or other proceeding on the part of Acquisition is necessary to authorize the execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement or the consummation by Acquisition of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by Acquisition and, assuming the due authorization, execution and delivery by the Company, constitutes a legal, valid and binding obligation of Acquisition, enforceable against it in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity.

Section 4.3 Non-Contravention. The execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement and the consummation by Acquisition of the transactions contemplated by this Agreement do not and will not (a) violate or conflict with any provision of the Articles of Incorporation, (b) violate, conflict with, or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, contract, agreement or other instrument or obligation to which Acquisition is a party or by which Acquisition or any of its properties or assets may be bound, (c) assuming the Consents referred to in Section 3.5 of the Company Disclosure Letter are obtained or made, violate or conflict with any Law or Order applicable to Acquisition or by which any of their properties or assets are bound or (d) result in the creation of any Lien (other than Permitted Liens) upon any of the properties or assets of Acquisition, except in the case of each of clauses (b), (c) and (d) above, for such violations, conflicts, defaults, terminations, accelerations or Liens which would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its respective covenants and obligations hereunder.

Section 4.4 Required Governmental Approvals. No Consent of any Governmental Authority is required on the part of Acquisition or any of its Affiliates in connection with the execution and delivery by Acquisition of this Agreement, the performance by Acquisition or any of its affiliates of their respective covenants and obligations

hereunder and the consummation by Acquisition of the transactions contemplated hereby, except (a) the filing and registration of the Articles of Merger with the Secretary of State and such filings with Governmental Authorities to satisfy the applicable laws of states in which Acquisition is qualified to do business, (b) such filings and approvals as may be required by any United States federal or state securities laws, including compliance with any applicable requirements of the Exchange Act, and the filing of the Proxy Statement and the Schedule 13E-3, and (c) such other Consents, the failure of which to obtain would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder.

Section 4.5 Available Funds. Acquisition has or will have available to it, as of the Effective Time, all funds necessary for the payment to the Paying Agent of the aggregate amount of the Exchange Fund and any other amounts required to be paid in connection with the consummation of the Merger and the other transactions contemplated by this Agreement and to pay all related fees and expenses of Acquisition.

Section 4.6 Litigation. As of the date hereof, there is no Legal Proceeding pending or, to the Knowledge of Acquisition or any of its Affiliates, threatened in writing against or affecting Acquisition or any of their Affiliates or any of their respective properties that would, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder. Acquisition is not subject to any outstanding Order that would, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder.

Section 4.7 Ownership of Company Share Capital. As of the date hereof, other than the Principal Shares, neither Acquisition nor any of its Affiliates owns (beneficially (as such term is used in Rule 13d-3 promulgated under the Exchange Act), of record or otherwise) any Company Shares or Subsidiary Securities (or any other economic interest through derivative securities or otherwise in the Company or any Subsidiary of the Company) except pursuant to this Agreement.

Section 4.8 Brokers. No agent, broker, finder or investment banker is entitled to any brokerage, finder or other fee or commission payable by the Company in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Acquisition.

Section 4.9 Operations of Acquisition. Acquisition has been formed solely for the purpose of engaging in the transactions contemplated hereby and, prior to the Effective Time, Acquisition will not have engaged in any other business activities or have incurred any liabilities or obligations other than as contemplated by this Agreement.

Section 4.10 Capitalization of Acquisition. The authorized share capital of Acquisition consists of 50,000 shares, par value $0.001 per share, 19 of which are validly issued and outstanding. Mr. Minhua Chen and Mrs. Yanling Fan own 100% of the issued and outstanding share capital of Acquisition.

Section 4.11 Solvency. Acquisition is not entering into the transactions contemplated hereby with the intent to hinder, delay or defraud any present or future creditors. Assuming that the Company is solvent immediately prior to the Effective Time without giving effect to the transactions contemplated by this Agreement, then as of the Effective Time and immediately after giving effect to all of the transactions contemplated by this Agreement, including the Merger and the payment of the aggregate Per Share Merger Consideration and payment of all related fees and expenses of Acquisition, the Company and their respective Subsidiaries in connection therewith, (a) the amount of the "fair saleable value" of the assets of each of the Surviving Company and its Subsidiaries will exceed (i) the value of all liabilities of the Surviving Company and such Subsidiaries, including contingent and other liabilities, and (ii) the amount that will be required to pay the probable liabilities of the Surviving Company and such Subsidiaries on their existing debts (including contingent liabilities) as such debts become absolute and matured, (b) neither the Surviving Company nor any of its Subsidiaries will have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged, and (c) each of the Surviving Company and its Subsidiaries will be able to pay its liabilities, including contingent and other liabilities, as they mature. For purposes of the foregoing, "not have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged" and "able to pay its liabilities, including contingent and other liabilities, as they mature" means that such Person will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due. For purposes of this representation, the Parties assume that the Company immediately prior to the Effective Time will be able

to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due without giving effect to transactions contemplated by this Agreement.

Section 4.12 No Other Acquisition Representations or Warranties. Except for the representations and warranties set forth in Article IV, the Company hereby acknowledges and agrees that (a) neither Acquisition nor any of its Affiliates, nor any of their respective Representatives, has made or is making any other express or implied representation or warranty with respect to Acquisition or its business or operations, including with respect to any information provided or made available to the Company or any of its Representatives, and (b) neither Acquisition nor any of its Affiliates, nor any of their respective Representatives, will have or be subject to any liability or indemnification obligation or other obligation of any kind or nature to the Company or any of its Representatives, resulting from the delivery, dissemination or any other distribution to the Company or any of its Representatives, or the use by the Company or any of its Representatives, of any such information provided or made available to any of them by Acquisition or any of its Representatives, including any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material provided or made available to the Company or any of its Representatives, in "data rooms," confidential information memoranda or management presentations in anticipation or contemplation of the Merger or any other transactions contemplated by this Agreement.

ARTICLE V
COVENANTS OF THE COMPANY

Section 5.1 Interim Conduct of Business.

(a) Except as (i) contemplated, required or permitted by this Agreement, (ii) required by applicable Law, (iii) set forth in Section 5.1(a) of the Company Disclosure Letter, or (iv) approved by Acquisition (which approval will not be unreasonably withheld, conditioned or delayed), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company and each of its Subsidiaries shall (A) carry on its business in the ordinary course in substantially the same manner as heretofore conducted in all material respects, and (B) use its reasonable best efforts, consistent with past practices, to preserve substantially intact its business organization and preserve the current relationships of the Company and each of its Subsidiaries with material customers, suppliers and other Persons with whom the Company or any of its Subsidiaries has significant business relations as is reasonably necessary.

(b) Except as (i) contemplated, required or permitted by this Agreement, (ii) required by applicable Law, (iii) set forth in Section 5.1(b) of the Company Disclosure Letter, or (iv) approved by Acquisition (which approval will not be unreasonably withheld, conditioned or delayed), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company shall not do any of the following and shall not permit any of its Subsidiaries to do any of the following (it being understood and hereby agreed that if any action is expressly permitted by any of the following subsections, such action shall be expressly permitted under Section 5.1(a)):

(i) amend its articles of incorporation, bylaws or comparable organizational documents;

(ii) issue, sell, deliver or agree or commit to issue, sell or deliver (whether through the issuance or granting of options, warrants, commitments, subscriptions, rights to purchase or otherwise) any Company Securities or any Subsidiary Securities, except for (A) the issuance and sale of Company Shares, (B) grants to employees or directors of Company Options issued in the ordinary course of business consistent with past practice, and with a per share exercise price that is no less than the then-current market price of a Company Share;

(iii) directly or indirectly acquire, repurchase or redeem any Company Securities;

(iv) (A) split, combine, subdivide or reclassify any Company Shares, (B) declare, set aside or pay any dividend or other distribution (whether in cash, shares or property or any combination thereof) in respect of any Company Shares, or make any other actual, constructive or deemed distribution in respect of Company Shares, except for cash dividends made by any direct or indirect Subsidiary of the Company to the

Company or one of its Subsidiaries or (C) enter into any voting agreement with respect to its share capital that is inconsistent with the transaction contemplated hereby;

(v) propose or adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company or any of its Subsidiaries, except for (A) the transactions contemplated by this Agreement or (B) the dissolution or reorganization of a wholly owned Subsidiary of the Company in the ordinary course of business consistent with past practice;

(vi) (A) incur or assume any long-term or short-term debt for borrowed monies or issue any debt securities, except for (1) debt incurred in the ordinary course of business under letters of credit, lines of credit or other credit facilities or arrangements in effect on the date hereof or issuances or repayment of commercial paper in the ordinary course of business consistent with past practice, and (2) loans or advances between the Company and any direct or indirect Subsidiaries, or between any direct or indirect Subsidiaries, (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person in excess of $50,000 (or an equivalent amount in RMB) individually or $100,000 (or an equivalent amount in RMB) in the aggregate, except with respect to obligations of direct or indirect Subsidiaries of the Company, (C) make any loans, advances or capital contributions to or investments in any other Person (other than the Company or any direct or indirect Subsidiaries), except for payments or advances made in the ordinary course of business of the Company or any of its direct or indirect Subsidiaries consistent with their respective past practice, or (D) mortgage or pledge any of its or its Subsidiaries' assets, tangible or intangible, or create or suffer to exist any Lien thereupon (other than Permitted Liens);

(vii) except as may be required by applicable Law or the terms of any employee benefit plan as in effect on the date hereof, (A) enter into, adopt, amend (including acceleration of vesting), modify or terminate any bonus, profit sharing, incentive, compensation, severance, retention, termination, option, appreciation right, performance unit, share equivalent, share purchase agreement, pension, retirement, deferred compensation, employment, severance or other employee benefit agreement, trust, plan, fund or other arrangement for the compensation, benefit or welfare of any officer or employee in any manner, except in any such case (1) in connection with the hiring of new officers or employees in the ordinary course of business consistent with past practice, and (2) in connection with the promotion of officers or employees in the ordinary course of business consistent with past practice, or (B) increase the compensation payable or to become payable to any officer or employee, pay or agree to pay any special bonus or special remuneration to any officer or employee, or pay or agree to pay any benefit not required by any plan or arrangement as in effect as of the date hereof, except in the ordinary course of business consistent with past practice;

(viii) except as may be required as a result of a change in applicable Law or in GAAP, make any material change in any of the accounting principles or practices used by it;

(ix) sell, transfer, lease, license, assign or otherwise dispose of (including, by merger, consolidation, or sale of stock or assets) any entity, business, tangible assets or tangible properties of the Company or any of its Subsidiaries having a current value in excess of $100,000 (or an equivalent amount in RMB) in the aggregate (other than the sale of inventory in the ordinary course of business);

(x) sell, transfer, license, assign or otherwise dispose of (including, by merger, consolidation or sale of stock or assets), abandon, permit to lapse or fail to maintain or enforce any material intellectual property owned by the Company or any of its Subsidiaries (except the granting of nonexclusive licenses in the ordinary course of business), or disclose to any Person any confidential information (except pursuant to confidentiality agreements);

(xi) (A) make or change any material Tax election, (B) settle or compromise any material income Tax liability, or (C) consent to any extension or waiver of any limitation period with respect to any claim or assessment for material Taxes, in each case to the extent such election, settlement, compromise, extension, waiver or other action would have the effect of materially increasing the Tax liability of the Company or any of its Subsidiaries for any period ending after the Closing Date or materially decreasing any Tax attribute of the Company or any of its Subsidiaries existing on the Closing Date;

(xii) other than in the ordinary course of business consistent with past practice, (A) acquire (by merger, consolidation or acquisition of stock or assets) any other Person or any material equity interest

therein with a value in excess of $100,000 (or an equivalent amount in RMB) individually or $500,000 (or an equivalent amount in RMB) in the aggregate or (B) dispose of any properties or assets of the Company or its Subsidiaries, which are material to the Company and its Subsidiaries, taken as a whole;

(xiii) enter into any new line of business outside of its existing business segments;

(xiv) adopt, propose, effect or implement any "shareholder rights plan," "poison pill" or similar arrangement; or

(xv) enter into a Contract, or otherwise resolve or agree in any legally binding manner, to take any of the actions prohibited by this Section 5.1(b).

(c) Notwithstanding the foregoing, nothing in this Agreement is intended to give Acquisition, directly or indirectly, the right to control or direct the business or operations of the Company or its Subsidiaries at any time prior to the Effective Time. Prior to the Effective Time, the Company and its Subsidiaries shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over their own business and operations.

Section 5.2 No Solicitation.

(a) Subject to Section 5.2(b), from the date hereof until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company and its Affiliates shall not, nor shall they authorize or knowingly permit any of their respective Representatives to, directly or indirectly, (i) solicit, initiate or induce the making, submission or announcement of, or knowingly encourage, facilitate or assist, an Acquisition Proposal, (ii) furnish to any Person (other than Acquisition or any designees of Acquisition) any non-public information relating to the Company or any of its Subsidiaries, or afford to any Person (other than Acquisition or any designees of Acquisition or Acquisition) access to the business, properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, in any such case with the intent to induce the making, submission or announcement of, or the intent to encourage, facilitate or assist, an Acquisition Proposal or any inquiries or the making of any proposal that would reasonably be expected to lead to an Acquisition Proposal, (iii) participate or engage in discussions or negotiations with any Person with respect to an Acquisition Proposal, (iv) approve, endorse or recommend an Acquisition Proposal, or (v) enter into any Contract contemplating or otherwise relating to an Acquisition Transaction. Promptly following the date of this Agreement, the Company and its Affiliate shall instruct their Representatives that are engaged in ongoing discussions and negotiations with any Persons (other than Acquisition or any of its Representatives) with respect to any possible Acquisition Proposal to cease any such discussions.

(b) Notwithstanding anything to the contrary set forth in Section 5.2(a), the Company Board (acting through the Special Committee), may, directly or indirectly through the Company's Representatives, (i) contact any Person that has made a *bona fide*, written Acquisition Proposal to clarify and understand the terms and conditions thereof in order to assess whether such Acquisition Proposal is reasonably expected to lead to a Superior Proposal, (ii) participate or engage in discussions or negotiations with any Person that has made a *bona fide*, written Acquisition Proposal and that the Company Board (acting through the Special Committee) determines in good faith, after consultation with its financial advisor and outside legal counsel, either constitutes or is reasonably expected to lead to a Superior Proposal, and/or (iii) furnish to any Person that has made a *bona fide*, written Acquisition Proposal that the Company Board (acting through the Special Committee) determines in good faith, after consultation with its financial advisor and outside legal counsel, either constitutes or is reasonably expected to lead to a Superior Proposal any non-public information relating to the Company or any of its Subsidiaries, and/or afford to any such Person access to the business, properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, in each case under this clause (iii) pursuant to a confidentiality agreement; provided that in the case of any action taken pursuant to the preceding clauses (ii) or (iii), the Company Board (acting through the Special Committee) determines in good faith (after consultation with outside legal counsel) that the failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law, provided further that the Company shall (I) provide written notice to Acquisition of its intent to furnish information or enter into discussions with such Person at least one Business Day prior to taking any such action, (II) promptly following its execution, deliver to Acquisition a copy of the confidentiality agreement executed by the Company and such Person, and (III) promptly make available to Acquisition any material information

concerning the Company and its Subsidiaries that is provided to any such Person and that was not previously made available to Acquisition or its Representatives.

Section 5.3 Company Board Recommendation.

(a) Subject to the terms of Section 5.3(b) and Section 5.3(c), the Company Board shall recommend that the holders of Company Shares authorize this Agreement (the "**Company Board Recommendation**").

(b) Neither the Company Board nor any committee thereof (including the Special Committee) shall (i) (A) withhold, withdraw, amend or modify in a manner adverse to Acquisition in any material respect, or publicly propose to withhold, withdraw, amend or modify in a manner adverse to Acquisition in any material respect, the Company Board Recommendation or (B) adopt, approve or recommend, or propose publicly to adopt, approve or recommend, any Superior Proposal (any action in this clause (i) being referred to as a "**Company Board Recommendation Change**"); or (ii) adopt, approve or recommend, or allow the Company or any of its Subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement or other similar agreement (each, an "**Alternative Acquisition Agreement**") constituting or related to, or that would reasonably be expected to result in, any Acquisition Proposal (other than a confidentiality Agreement referred to in Section 5.2); provided that a "stop, look and listen" communication by the Company Board or the Special Committee, to the Company Shareholders pursuant to Rule 14d-9(f) of the Exchange Act, or any substantially similar communication, shall not be deemed to be a Company Board Recommendation Change.

Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, at any time prior to the Effective Time, (x) the Company Board (acting through the Special Committee, if in existence) may effect a Company Board Recommendation Change if the Company Board (acting through the Special Committee) determines in good faith (after consultation with outside legal counsel) that the failure to effect a Company Board Recommendation Change would reasonably be expected to be inconsistent with its fiduciary duties to the Company Shareholders under applicable Law and (y) if the Company Board determines in good faith (after consultation with the Company's outside financial and legal advisors) that an Acquisition Proposal constitutes a Superior Proposal, then the Company may enter into an Alternative Acquisition Agreement with respect to such Superior Proposal or terminate this Agreement in accordance with Section 9.1(d).

(c) The Company shall not be entitled to effect a Company Board Recommendation Change or terminate this Agreement as permitted under Section 9.1(d) unless the Company has provided written notice (a "**Recommendation Change Notice**") at least fifteen (15) Business Days in advance to Acquisition advising Acquisition that the Company Board intends to make a Company Board Recommendation Change or enter into an Alternative Acquisition Agreement with respect to an Acquisition Proposal that either constitutes or could reasonably be expected to constitute a Superior Proposal, as applicable, and specifying the reasons therefor, including the terms and conditions of such Acquisition Proposal that is the basis of the proposed action by the Company Board (including the identity of the Person making the Acquisition Proposal and any financing materials related thereto, if any) and following the end of the fifteen (15) Business Day period, the Company Board and the Special Committee shall have determined in good faith, taking into account any changes to this Agreement proposed in writing by Acquisition in response to the notice of Superior Proposal, that the Acquisition Proposal giving rise to the notice of Superior Proposal continues to constitute a Superior Proposal. Notwithstanding anything herein to the contrary, should Acquisition respond to the Recommendation Change Notice within such fifteen (15) Business Day period with a proposal equivalent to the proposed Superior Proposal, then the revised proposal from Acquisition shall be recommended by the Company Board as the Company Board Recommendation. Any material amendment to the financial terms or any other material amendment of any such Superior Proposal shall require a new notice of Superior Proposal and the Company shall be required to comply again with the requirements of this Section 5.3(c).

(d) Nothing in this Agreement shall prohibit the Company Board or the Special Committee, from (i) complying with its disclosure obligations under applicable Law with regard to an Acquisition Proposal, including taking and disclosing to the Company Shareholders a position contemplated by Rule 14e-2(a) under the Exchange Act or complying with the provisions of Rule 14d-9 promulgated under the Exchange Act (or any similar communication to the Company Shareholders), and (ii) making any disclosure to the Company Shareholders that the Company Board or the Special Committee, if in existence, determines in good faith (after consultation with its

outside legal counsel) that the failure to make such disclosure would reasonably be expected to be inconsistent with its fiduciary duties to the Company Shareholders under applicable Law.

Section 5.4 Access. At all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company shall afford Acquisition and its Representatives reasonable access during normal business hours, upon reasonable notice, to the properties, books and records and personnel of the Company; provided that the Company may restrict or otherwise prohibit access to any documents or information to the extent that (a) any applicable Law requires the Company to restrict or otherwise prohibit access to such documents or information, (b) such documents or information are subject to any attorney-client privilege, work product doctrine or other privilege applicable to such documents or information, or (c) access to a Contract to which the Company or any of its Subsidiaries is a party or otherwise bound would violate or cause a default under, or give a third party the right to terminate or accelerate the rights under, such Contract; provided further that no information or knowledge obtained by Acquisition in any investigation conducted pursuant to the access contemplated by this Section 5.4 shall affect or be deemed to modify any representation or warranty of the Company set forth in this Agreement or otherwise affect the rights and remedies available to Acquisition hereunder. Any investigation conducted pursuant to the access contemplated by this Section 5.4 shall be conducted in a manner that does not unreasonably interfere with the conduct of the business of the Company and its Subsidiaries or create a risk of damage or destruction to any property or assets of the Company or any of its Subsidiaries. Any access to the Company's properties shall be subject to the Company's reasonable security measures and insurance requirements and shall not include the right to perform invasive testing.

Section 5.5 Certain Litigation. Each party hereto shall promptly advise the other parties hereto of any litigation commenced after the date hereof against such party or any of its directors (in their capacity as such) by any Company Shareholders (on their own behalf or on behalf of the Company) relating to this Agreement or the transactions contemplated hereby, and shall keep the other parties hereto reasonably informed regarding any such litigation. Each party hereto shall give the other parties hereto the opportunity to consult with such party regarding the defense or settlement of any such shareholder litigation and shall consider such other parties' views with respect to such shareholder litigation.

ARTICLE VI
COVENANTS OF ACQUISITION

Section 6.1 Obligations of Acquisition. Acquisition and its Affiliates shall take all action necessary to perform its obligations under this Agreement and to consummate the transactions contemplated hereby upon the terms and subject to the conditions set forth in this Agreement.

ARTICLE VII
ADDITIONAL COVENANTS OF ALL PARTIES

Section 7.1 Reasonable Best Efforts to Complete. Upon the terms and subject to the conditions set forth in this Agreement, each of Acquisition and the Company shall use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party or parties hereto in doing, all things reasonably necessary, proper or advisable under applicable Law or otherwise to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including using reasonable best efforts to: (a) cause the conditions set forth in Article VIII to be satisfied; and (b) obtain all necessary actions or non-actions, waivers, consents, approvals, orders and authorizations from Governmental Authorities and make all necessary registrations, declarations and filings with Governmental Authorities, that are necessary to consummate the Merger or the transactions contemplated hereby. In addition to the foregoing, neither Acquisition, on the one hand, nor the Company, on the other hand, shall take any action that, or fail to take any action if such failure, is intended to, or has (or would reasonably be expected to have) the effect of, preventing, impairing, delaying or otherwise adversely affecting the consummation of the Merger or the ability of such party to fully perform its obligations under this Agreement. Notwithstanding anything to the contrary herein, the Company shall not be required prior to the Effective Time to pay any consent or other similar fee, "profit sharing" or other similar payment or other consideration (including increased rent or other similar payments or any amendments, supplements or other modifications to (or waivers of) the existing terms of any Contract), or the provision of additional security (including a guaranty) to obtain the consent, waiver or approval of any Person under any Contract.

Section 7.2 Regulatory Filings.

(a) Acquisition, on the one hand, and the Company, on the other hand, shall promptly inform the other of any communication from any Governmental Authority regarding any of the transactions contemplated by this Agreement in connection with any filings or investigations with, by or before any Governmental Authority relating to this Agreement or the transactions contemplated hereby, including any proceedings initiated by a private party. In connection with and without limiting the foregoing, to the extent reasonably practicable and unless prohibited by applicable Law or by the applicable Governmental Authority, the parties hereto agree to (i) give each other reasonable advance notice of all meetings with any Governmental Authority relating to the Merger, (ii) give each other an opportunity to participate in each of such meetings, (iii) keep the other party reasonably apprised with respect to any oral communications with any Governmental Authority regarding the Merger, (iv) cooperate in the filing of any analyses, presentations, memoranda, briefs, arguments, opinions or other written communications explaining or defending the Merger, articulating any regulatory or competitive argument and/or responding to requests or objections made by any Governmental Authority, (v) provide each other with a reasonable advance opportunity to review and comment upon, and consider in good faith the views of the other with respect to, all written communications (including any analyses, presentations, memoranda, briefs, arguments and opinions) with a Governmental Authority regarding the Merger, (vi) provide each other (or counsel of each party, as appropriate) with copies of all written communications to or from any Governmental Authority relating to the Merger, and (vii) cooperate and provide each other with a reasonable opportunity to participate in, and consider in good faith the views of the other with respect to, all material deliberations with respect to all efforts to satisfy the conditions set forth in Section 8.1(b). Any such disclosures, rights to participate or provisions of information by one party to the other may be made on a counsel-only basis to the extent required under applicable Law or as appropriate to protect confidential information.

(b) Each of Acquisition and the Company shall cooperate with one another in good faith to (i) promptly determine whether any filings not expressly contemplated by this Agreement are required to be or should be made, and whether any other consents, approvals, permits or authorizations not expressly contemplated by this Agreement are required to be or should be obtained, from any Governmental Authority under any other applicable Law in connection with the transactions contemplated hereby, and (ii) promptly make any filings, furnish information required in connection therewith and seek to obtain timely any such consents, permits, authorizations, approvals or waivers that the parties determine are required to be or should be made or obtained in connection with the transactions contemplated hereby.

Section 7.3 Company Shareholders Meeting.

(a) As promptly as practicable following the date hereof, the Company, in cooperation with and subject to the approval of the Special Committee, shall, in accordance with applicable Law (in the case of each of clauses (i) to (iv), unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement): (i) prepare and cause to be filed with the SEC as an exhibit to the Schedule 13E-3 a preliminary proxy statement (the "**Preliminary Proxy Statement**") relating to this Agreement and the transactions contemplated by this Agreement; (ii) after consultation with Acquisition, respond as promptly as reasonably practicable to any comments made by the SEC with respect to the Preliminary Proxy Statement (including filing as promptly as reasonably practicable any amendments or supplements thereto necessary to be filed in response to any such comments or as required by Law); (iii) use reasonable best efforts to have the SEC confirm that it has no further comments thereto; and (iv) cause a definitive proxy statement, letter to shareholders, notice of meeting and form of proxy accompanying the proxy statement that will be provided to the Company Shareholders in connection with the solicitation of proxies for use at the Company Shareholders Meeting (collectively, as amended or supplemented, the "**Proxy Statement**"), to be mailed to the Company Shareholders at the earliest practicable date after the date that the SEC confirms it has no further comments. Acquisition shall as promptly as practicable furnish all information as the Company may reasonably request and otherwise cooperate with and assist the Company, at the Company's reasonable request, in connection with the preparation of the Preliminary Proxy Statement, the Proxy Statement and the other actions to be taken by the Company under this Section 7.3(a).

(b) Unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company, in cooperation with and subject to the approval of the Special Committee, and Acquisition shall cooperate to: (i) concurrently with the

preparation of the Preliminary Proxy Statement and the Proxy Statement (including any amendments or supplements thereto), jointly prepare and file with the SEC the Schedule 13E-3 relating to the transactions contemplated hereby and furnish to each other all information concerning such party as may be reasonably requested by the other party in connection with the preparation of the Schedule 13E-3; (ii) respond as promptly as reasonably practicable to any comments received from the SEC with respect to such filings and consult with each other prior to providing such response; (iii) as promptly as reasonably practicable after consulting with each other, prepare and file any amendments or supplements necessary to be filed in response to any SEC comments or as required by Law; (iv) have cleared by the SEC the Schedule 13E-3; and (v) to the extent required by applicable Law, as promptly as reasonably practicable prepare, file and distribute to the Company Shareholders any supplement or amendment to the Schedule 13E-3 if any event shall occur which requires such action at any time prior to the Company Shareholders Meeting.

(c) Unless the Company Board (acting through the Special Committee) shall have effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company shall, in accordance with applicable Law, notify Acquisition promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement or for additional information and will supply Acquisition with copies of all correspondence between the Company or any of its Representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement. The Company shall give Acquisition a reasonable opportunity to comment on any correspondence with the SEC or its staff or any proposed material to be included in the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement prior to transmission to the SEC or its staff and shall not, unless required by Law, transmit any such material to which Acquisition reasonably objects. If the Company discovers at any time prior to the Company Shareholders Meeting any information that, pursuant to the Exchange Act, is required to be set forth in an amendment or supplement to the Proxy Statement, then the Company, in cooperation with and subject to the approval of the Special Committee, shall promptly transmit such amendment or supplement to the Company Shareholders.

(d) Unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company, in cooperation with and subject to the approval of the Special Committee, shall (i) in accordance with applicable Law, establish a record date for and duly call a meeting of the Company Shareholders (the "**Company Shareholders Meeting**") as promptly as reasonably practicable following the date hereof for the purposes of considering and, if thought fit by the Company Shareholders, passing resolutions to authorize and approve this Agreement and the Merger, (ii) use reasonable best efforts to solicit the authorization and approval of this Agreement and the Merger by the Company Shareholders, and (iii) include in the Proxy Statement the Company Board Recommendation. Notwithstanding the foregoing, the Company may adjourn or postpone the Company Shareholders Meeting as and to the extent: (1) required by applicable Law; (2) if as of the time for which the Company Shareholders Meeting is originally scheduled (as set forth in the Proxy Statement) there are insufficient Company Shares represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of the Company Shareholders Meeting; or (3) if in the good faith judgment of the Company Board, such adjournment or postponement is consistent with its fiduciary duties under applicable Law.

(e) Notwithstanding the foregoing or anything else herein to the contrary, and subject to compliance with the terms of Section 5.3, in connection with any disclosure regarding a Company Board Recommendation Change relating to a Superior Proposal or an Acquisition Proposal, the Company shall not be required to provide Acquisition the opportunity to review or comment on (or include comments proposed by Acquisition in) or permit Acquisition to participate in any discussions with the SEC regarding the Proxy Statement, or any amendment or supplement thereto, or any comments thereon or any other filing by the Company with the SEC, with respect to such disclosure.

Section 7.4 Anti-Takeover Laws. In the event that any anti-takeover Law is or becomes applicable to this Agreement or any of the transactions contemplated by this Agreement, the Company and Acquisition shall use their respective reasonable best efforts to ensure that the transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms and subject to the conditions set forth in this Agreement and otherwise to minimize the effect of such Law on this Agreement and the transactions contemplated hereby.

Section 7.5 Public Statements and Disclosure. None of the Company, on the one hand, or Acquisition, on the other hand, shall issue any public release or make any public announcement concerning this Agreement or the

transactions contemplated by this Agreement without the prior written consent of the other (which consent shall not be unreasonably withheld, conditioned or delayed), except as such release or announcement may be required by applicable Law or the rules or regulations of any applicable United States securities exchange or regulatory or Governmental Authority to which the relevant party is subject or submits, wherever situated, in which case the party required to make the release or announcement shall use its reasonable best efforts to allow the other party or parties hereto 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, as well as the timing of any such release or announcement, shall be at the final discretion of the disclosing party); provided that the restrictions set forth in this Section 7.5 shall not apply to any release or announcement made or proposed to be made by the Company pursuant to Section 5.3 or following a Company Board Recommendation Change.

Section 7.6 Actions Taken at Direction of Acquisition/Principal Shareholders. Notwithstanding any other provision of this Agreement to the contrary, the Company shall not be deemed to be in breach of any representation, warranty, covenant or agreement hereunder, including, without limitation, Article VI and Article VII hereof, if the alleged breach is the proximate result of action or inaction taken by the Company or any of its Subsidiaries at the direction of Acquisition, any Principal Shareholder or any shareholder, officer or director of Acquisition or any Principal Shareholder without the approval or direction of the Company Board or the Special Committee.

Section 7.7 Directors' and Officers' Indemnification.

(a) The Surviving Company and its Affiliates shall honor and fulfill in all respects the obligations of the Company and its Subsidiaries under any and all indemnification agreements between the Company or any of its Subsidiaries and any of their respective current or former directors and officers and any person who becomes a director or officer of the Company or any of its Subsidiaries prior to the Effective Time (the "**Indemnified Persons**"). In addition, during the period commencing at the Effective Time and ending on the sixth anniversary of the Effective Time, the Surviving Company and its Affiliates shall cause the articles of incorporation (and other similar organizational documents) of the Surviving Company and its Subsidiaries to contain provisions with respect to indemnification, exculpation and the advancement of expenses that are at least as favorable to the Indemnified Person as the indemnification, exculpation and advancement of expenses provisions contained in the articles of incorporation (or other similar organizational documents) of the Company and its Subsidiaries as of the date hereof, and during such six-year period, such provisions shall not be repealed, amended or otherwise modified in any manner except as required by applicable Law.

(b) Without limiting the generality of the provisions of Section 7.7, during the period commencing at the Effective Time and ending on the second anniversary of the Effective Time, to the fullest extent permitted by applicable Law, the Surviving Company and its Affiliates shall indemnify and hold harmless each Indemnified Person from and against any costs, fees and expenses (including reasonable attorneys' fees and investigation expenses), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any claim, proceeding, investigation or inquiry, whether civil, criminal, administrative or investigative, to the extent such claim, proceeding, investigation or inquiry arises directly or indirectly out of or pertains directly or indirectly to (i) any action or omission or alleged action or omission in such Indemnified Person's capacity as a director, officer, employee or agent of the Company or any of its Subsidiaries or other Affiliates (regardless of whether such action or omission, or alleged action or omission, occurred prior to, at or after the Effective Time), or (ii) any of the transactions contemplated by this Agreement; provided that if, at any time prior to the sixth anniversary of the Effective Time, any Indemnified Person delivers to Acquisition and its Affiliates a written notice asserting a claim for indemnification under this Section 7.7 (b), then the claim asserted in such notice shall survive the sixth anniversary of the Effective Time until such time as such claim is fully and finally resolved. In addition, during the period commencing at the Effective Time and ending on the second anniversary of the Effective Time, to the fullest extent permitted by applicable Law, the Surviving Company and its Subsidiaries shall advance, prior to the final disposition of any claim, proceeding, investigation or inquiry for which indemnification may be sought under this Agreement, promptly following request by an Indemnified Person therefor, all costs, fees and expenses (including reasonable attorneys' fees and investigation expenses) incurred by such Indemnified Person in connection with any such claim, proceeding, investigation or inquiry upon receipt of an undertaking by such Indemnified Person to repay such advances if it is ultimately decided in a final, non-appealable judgment by a court of competent jurisdiction that such Indemnified Person is not entitled to indemnification. In the event of any such claim, proceeding, investigation or inquiry, (A) the Surviving Company and its Affiliates shall have the right to control

the defense thereof after the Effective Time (it being understood that, by electing to control the defense thereof, the Surviving Company and its Affiliates will be deemed to have waived any right to object to the Indemnified Person's entitlement to indemnification hereunder with respect thereto), (B) each Indemnified Person shall be entitled to retain his or her own counsel, whether or not the Surviving Company and its Affiliates shall elect to control the defense of any such claim, proceeding, investigation or inquiry, (C) the Surviving Company and its Affiliates shall pay all reasonable fees and expenses of any counsel retained by an Indemnified Person, promptly after statements therefor are received, whether or not the Surviving Company and its Affiliates shall elect to control the defense of any such claim, proceeding, investigation or inquiry, and (D) no Indemnified Person shall be liable for any settlement effected without his or her prior express written consent. Notwithstanding anything to the contrary set forth in this Section 7.7(b) or elsewhere in this Agreement, the Surviving Company and its Affiliates may settle or otherwise compromise or consent to the entry of any judgment or otherwise seek termination with respect to any claim, proceeding, investigation or inquiry for which indemnification may be sought by an Indemnified Person under this Agreement provided such settlement, compromise, consent or termination includes an unconditional release of all Indemnified Persons from all liability arising out of such claim, proceeding, investigation or inquiry.

(c) If the Surviving Company and its Affiliates or any of its successors or assigns shall (i) consolidate with or merge into any other Person and shall not be the continuing or surviving company or entity of such consolidation or merger, or (ii) transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Surviving Company and its Affiliates shall assume all of the obligations of the Surviving Company and its Affiliates set forth in this Section 7.7.

(d) The obligations set forth in this Section 7.7 shall not be terminated, amended or otherwise modified in any manner that adversely affects any Indemnified Person without the prior written consent of such affected Indemnified Person (and their heirs and representatives). Each of the Indemnified Persons (and their heirs and representatives) are intended to be third party beneficiaries of this Section 7.7, with full rights of enforcement as if a party thereto. The rights of the Indemnified Persons (and their heirs and representatives)) under this Section 7.7 shall be in addition to, and not in substitution for, any other rights that such persons may have under the articles of incorporation, bylaws or other equivalent organizational documents, any and all indemnification agreements of or entered into by the Company or any of its Subsidiaries, or applicable Law (whether at law or in equity).

(e) Nothing in this Agreement is intended to, shall be construed to or shall release, waive or impair any rights to directors' and officers' insurance claims under any policy that is or has been in existence with respect to the Company or any of its Subsidiaries for any of their respective directors, officers or other employees, it being understood and agreed that the indemnification provided for in this Section 7.7 is not prior to or in substitution for any such claims under such policies.

ARTICLE VIII
CONDITIONS TO THE MERGER

Section 8.1 Conditions to the Obligations of Each Party. The respective obligations of Acquisition and the Company to consummate the Merger shall be subject to the satisfaction or waiver (except with respect to the condition set forth in Section 8.1(a), which cannot be waived) by mutual written agreement of Acquisition and the Company (subject to the approval of the Special Committee), prior to the Effective Time, of each of the following conditions:

(a) Requisite Shareholder Approval. The Company shall have received the Requisite Shareholder Approval.

(b) No Legal Prohibition. No Governmental Authority of competent jurisdiction shall have (i) enacted, issued or promulgated any Law that is in effect and has the effect of making the Merger illegal in any jurisdiction in which the Company has material business or operations or which has the effect of prohibiting or otherwise preventing the consummation of the Merger in any jurisdiction in which the Company has material business or operations, or (ii) issued or granted any Order that has the effect of making the Merger illegal in any jurisdiction in which the Company has material business or operations or which has the effect of prohibiting or otherwise preventing the consummation of the Merger in any jurisdiction in which the Company has material business or operations.

Section 8.2 Conditions to the Obligations of Acquisition. The obligations of Acquisition to consummate the Merger shall be subject to the satisfaction or waiver prior to the Effective Time of each of the following conditions, any of which may be waived exclusively by Acquisition:

(a) Representations and Warranties. The representations and warranties of the Company set forth in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of such date (except for those representations and warranties that address matters only as of a particular date, which representations and warranties shall have been true and correct as of such particular date), except (i) for any failure to be so true and correct which has not had a Company Material Adverse Effect and (ii) for changes contemplated by this Agreement; provided that, solely for purposes of determining the accuracy of the representations and warranties of the Company set forth in this Agreement for purposes of this Section 8.2(a), all "materiality" and "Company Material Adverse Effect" qualifications set forth in such representations and warranties shall be disregarded.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects the material obligations that are to be performed by it under this Agreement at or prior to the Effective Time.

(c) No Company Material Adverse Effect. Since the date of this Agreement, there shall not have occurred and be continuing a Company Material Adverse Effect.

(d) Officer's Certificate. Acquisition shall have received a certificate of the Company, validly executed for and on behalf of the Company and in its name by a duly authorized officer thereof, certifying that the conditions set forth in Section 8.2(a) to Section 8.2(c) have been satisfied.

Section 8.3 Conditions to the Obligations of the Company. The obligations of the Company to consummate the Merger shall be subject to the satisfaction or waiver prior to the Effective Time of each of the following conditions, any of which may be waived exclusively by the Company, subject to the approval of the Special Committee:

(a) Representations and Warranties. The representations and warranties of Acquisition set forth in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of such date (except for those representations and warranties that address matters only as of a particular date, which representations and warranties shall have been true and correct as of such particular date), except (i) for any failure to be so true and correct that would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the ability of Acquisition to fully perform their respective covenants and obligations under this Agreement and (ii) for changes contemplated by this Agreement.

(b) Performance of Obligations of Acquisition. Acquisition shall have performed in all material respects the material obligations that are to be performed by Acquisition under this Agreement at or prior to the Effective Time.

(c) Officer's Certificate. The Company shall have received a certificate of Acquisition, validly executed for and on behalf of Acquisition and in by a duly authorized officer thereof, certifying that the conditions set forth in Section 8.3(a) and Section 8.3(b) have been satisfied.

ARTICLE IX
TERMINATION, AMENDMENT AND WAIVER

Section 9.1 Termination. This Agreement may be validly terminated only as follows (it being understood and hereby agreed that this Agreement may not be terminated for any other reason or on any other basis):

(a) at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), by mutual written agreement of Acquisition and the Company (acting through the Special Committee); or

(b) by either the Company (acting through the Special Committee) or Acquisition, at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that the Effective Time shall not have occurred on or before August 31, 2016, (such date referred to herein as the "**Outside Date**"); provided that the right to terminate this Agreement pursuant to this Section 9.1(b) shall not be available to

any party hereto (i) whose actions or omissions have been a principal cause of, or primarily resulted in, the failure of the Merger to occur on or before such date and such action or failure to act constitutes a breach of this Agreement or (ii) that is in material breach of this Agreement; or

(c) by either the Company (acting through the Special Committee) or Acquisition, at any time prior to the Effective Time, in the event that the Company shall have failed to obtain the Requisite Shareholder Approval after the final adjournment of the Company Shareholders Meeting at which a vote is taken on this Agreement and the Merger; or

(d) by the Company (acting through the Special Committee) in the event that: (i) the Company Board (acting through the Special Committee) shall have determined in good faith (after consultation with outside legal counsel) that the failure to terminate this Agreement would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law; (ii) the Company shall have delivered to Acquisition a Recommendation Change Notice; or (iii) the Company shave have entered into an Alternative Acquisition Agreement; or

(e) by the Company (acting through the Special Committee), at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that (i) the Company has not breached any of its representations, warranties or covenants under this Agreement in any material respect and (ii) Acquisition shall have breached any of its representations, warranties or covenants under this Agreement such that the conditions set forth in Section 8.3(a) or Section 8.3(b) would not be satisfied and shall have failed to cure such breach within thirty (30) Business Days after Acquisition has received written notice of such breach from the Company (it being understood that the Company shall not be permitted to terminate this Agreement pursuant to this Section 9.1(e) in respect of the breach set forth in any such written notice (A) at any time during such thirty (30) Business Day period, and (B) at any time after such thirty (30) Business Day period if Acquisition shall have cured such breach during such thirty (30) Business Day period); or

(f) by the Company (acting through the Special Committee), in the event that (i) the conditions set forth in Section 8.1 and Section 8.2 have been satisfied (excluding conditions that by their terms are to be satisfied on the Closing Date) and (ii) Acquisition fails to complete the Closing within five (5) Business Days following the date the Closing should have occurred; or

(g) subject to Section 7.6, by Acquisition, at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that (i) Acquisition has not breached any of its representations, warranties or covenants under this Agreement in any material respect, and (ii) the Company shall have breached any of its representations, warranties or covenants under this Agreement such that the conditions set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied and shall have failed to cure such material breach within thirty (30) Business Days after the Company has received written notice of such breach from Acquisition (it being understood that Acquisition shall not be permitted to terminate this Agreement pursuant to this Section 9.1(g) in respect of the breach set forth in any such written notice (A) at any time during such thirty (30) Business Day period, and (B) at any time after such thirty (30) Business Day period if the Company shall have cured such breach during such thirty (30) Business Day period); or

(h) by Acquisition, in the event that the Company Board or the Special Committee shall have effected and not withdrawn a Company Board Recommendation Change; provided that Acquisition's right to terminate this Agreement pursuant to this Section 9.1(h) in respect of a Company Board Recommendation Change shall expire ten (10) Business Days after the first date upon which the Company makes such Company Board Recommendation Change

Section 9.2 Notice of Termination; Effect of Termination. Any proper and valid termination of this Agreement pursuant to Section 9.1 shall be effective immediately upon the delivery of written notice of the terminating party to the other party or parties hereto, as applicable. In the event of the termination of this Agreement pursuant to Section 9.1, this Agreement shall be of no further force or effect without liability of any party or parties hereto, as applicable (or any director, officer, employee, affiliate, agent or other representative of such party or parties) to the other party or parties hereto, as applicable, except for the terms of this Section 9.2, Section 9.3 and Article X, each of which shall survive the termination of this Agreement; provided that nothing herein shall relieve any party hereto from liabilities for breach of this Agreement, subject to the limitations set forth in Section 9.3(d).

Section 9.3 Fees and Expenses.

(a) General. Except as otherwise set forth in this Section 9.3, all fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party or parties, as applicable, incurring such expenses whether or not the Merger is consummated.

(b) Company Payments.

(i) In the event that this Agreement is terminated (A) by the Company pursuant to Section 9.1(d) or (B) by Acquisition pursuant to Section 9.1(g) or Section 9.1(h), then in either case, the Company shall pay to Acquisition the Company Termination Fee plus, Acquisition's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by Acquisition and its Affiliates in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by Acquisition, within two (2) Business Days after such termination.

(ii) In the event that (A) a *bona fide* written offer or proposal (other than an offer or proposal by Acquisition or in connection with the transactions contemplated hereby) to engage in an Acquisition Transaction (provided that for purposes of this Section 9.3(b)(ii), all percentages included in the definition of Acquisition Transaction shall be increased to 50%) shall have been made after the date hereof and prior to the Company Shareholders Meeting, and not withdrawn as of the Company Shareholders Meeting, (B) following the occurrence of an event described in the preceding clause (A), this Agreement is terminated by the Company pursuant to Section 9.1(c) (provided that the Principal Shareholders unanimously voted in favor of the transactions contemplated hereby) and (C) within 12 months after the termination of this Agreement, the Company consummates the transactions contemplated by such same Acquisition Transaction; then the Company shall pay to Acquisition the Company Termination Fee plus, Acquisition's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by Acquisition and its Affiliates in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by Acquisition, within two (2) Business Days following the consummation of the transactions contemplated by such same Acquisition Transaction.

(iii) The parties hereto acknowledge and hereby agree that in no event shall the Company be required to pay the Company Termination Fee on more than one occasion, whether or not the Company Termination Fee may be payable under more than one provision of this Agreement at the same or at different times and the occurrence of different events.

(c) Acquisition Payments. In the event that this Agreement is terminated by the Company pursuant to Section 9.1(e) or Section 9.1(f), then in either case, Acquisition shall pay to the Company the Acquisition Termination Fee plus, the Company's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by the Company and its Subsidiaries in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by the Company, within two (2) Business Days after such termination. The parties hereto acknowledge and hereby agree that in no event shall Acquisition be required to pay the Acquisition Termination Fee on more than one occasion, whether or not the Acquisition Termination Fee may be payable under more than one provision of this Agreement at the same or at different times and the occurrence of different events.

Section 9.4 Amendment. Subject to applicable Law and subject to the other provisions of this Agreement, this Agreement may be amended by the parties hereto at any time by execution of an instrument in writing signed on behalf of each of Acquisition and the Company; provided that (a) any such amendment by the Company shall require the approval of the Special Committee and (b) in the event that the Company has received the Requisite Shareholder Approval, no amendment shall be made to this Agreement that requires the approval of the Company Shareholders under the NRS without obtaining the Requisite Shareholder Approval of such amendment.

Section 9.5 Extension; Waiver. At any time and from time to time prior to the Effective Time, any party or parties hereto may, to the extent legally allowed and except as otherwise set forth herein, (a) extend the time for the performance of any of the obligations or other acts of the other party or parties hereto, as applicable, (b) waive any inaccuracies in the representations and warranties made to such party or parties hereto contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions for the benefit of such party or parties hereto contained herein. Any agreement on the part of a party or parties hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party

or parties, as applicable. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

ARTICLE X
GENERAL PROVISIONS

Section 10.1 Survival of Representations, Warranties and Covenants. The representations and warranties of the Company and Acquisition contained in this Agreement shall terminate at the earlier of the Effective Time or termination of this Agreement pursuant to Article IX, and only the covenants that by their terms survive the Effective Time or termination of this Agreement shall so survive the Effective Time or termination of this Agreement in accordance with their respective terms.

Section 10.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service, or (c) immediately upon delivery by email, by hand or by facsimile (with a written or electronic confirmation of delivery), in each case to the intended recipient as set forth below:

(a) if to Acquisition to:

China Yida Holding Acquisition Co.
28/F Yifa Building
No. 111 Wusi Road
Fuzhow, Fujian, P.R. China
Attention: Minhua Chen

with a copy (which shall not constitute notice) to:

McLaughlin & Stern, LLP
260 Madison Avenue
New York, NY 10016
Attention: Steven Schuster
David W. Sass
Telephone No.: 212-448-1100
Fax No.: 212-448-6277

(b) if to the Company, to (or if to the Special Committee, in care of the Company):

China Yida Holding, Co.
28/F Yifa Building
No. 111 Wusi Road
Fuzhow, Fujian
P.R. China
Attention: Jocelyn Chen
Telephone No.: 86 591 2830 2230

with a copy (which shall not constitute notice) to:

Sidley & Austin LLP
Suite 2009
5 Corporate Avenue
150 Hubin Road
Shanghai 200021
China
Attention: Joseph Chan
Telephone No.: 86 21 2322 9328
Fax No.: 86 21 5306 8966

Section 10.3 Assignment. No party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other parties. Subject to the preceding sentence, this Agreement shall (a) be binding upon the parties hereto and their respective successors and permitted assigns and (b) inure to the benefit of the parties hereto and their respective successors and permitted assigns and the Special Committee.

Section 10.4 Entire Agreement. This Agreement, the Voting Agreement, the Articles of Merger, the Limited Guarantee and the other documents and instruments and other agreements among the parties hereto as contemplated by or referred to herein and therein, including the Company Disclosure Letter and the Annexes hereto, constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. EACH PARTY HERETO AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT, NEITHER ACQUISITION OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR REPRESENTATIVES, ON THE ONE HAND, NOR THE COMPANY OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR REPRESENTATIVES, ON THE OTHER HAND, MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER, AND EACH PARTY HEREBY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), OR AS TO THE ACCURACY OR COMPLETENESS OF ANY OTHER INFORMATION, MADE (OR MADE AVAILABLE BY) BY ITSELF OR ANY OF ITS REPRESENTATIVES, WITH RESPECT TO, OR IN CONNECTION WITH, THE NEGOTIATION, EXECUTION OR DELIVERY OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, NOTWITHSTANDING THE DELIVERY OR DISCLOSURE TO THE OTHER OR THE OTHER'S REPRESENTATIVES OF ANY DOCUMENTATION OR OTHER INFORMATION WITH RESPECT TO ANY ONE OR MORE OF THE FOREGOING.

Section 10.5 Third Party Beneficiaries. Except as provided in Section 7.7, Acquisition and the Company hereby agree that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other party hereto, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein. The parties hereto further agree that the rights of third party beneficiaries under Section 7.7 shall not arise unless and until the Effective Time occurs. The representations and warranties in this Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties hereto. Any inaccuracies in such representations and warranties are subject to waiver by the parties hereto in accordance with Section 9.5 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, Persons other than the parties hereto may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 10.6 Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

Section 10.7 Remedies.

(a) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy.

(b) The parties hereto hereby agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached, and that money damages or other legal remedies would not be an adequate remedy for any such damages. Accordingly, the parties hereto acknowledge and hereby agree that in the event of any breach or threatened breach by the Company, on the one hand, or Acquisition on the other hand, of any of their respective covenants or obligations set forth in this Agreement and the Voting Agreement, the Company, on the one hand, and Acquisition, on the other hand, shall

be entitled to an injunction or injunctions to prevent or restrain breaches or threatened breaches of this Agreement and the Voting Agreement by the other (as applicable), and to specifically enforce the terms and provisions of this Agreement and the Voting Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of the other under this Agreement and the Voting Agreement to cause Acquisition to fully enforce the terms thereof the and applicable laws and to thereafter cause the transactions contemplated by this Agreement, including the Merger, to be consummated. Acquisition hereby agrees not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches or threatened breaches of this Agreement by Acquisition, and to specifically enforce the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of Acquisition under this Agreement. If, prior to the Outside Date, any party brings any Legal Proceeding to enforce specifically the performance of the terms and provisions hereof by any other party, the Outside Date shall automatically be extended by (x) the amount of time during which such Legal Proceeding is pending, plus twenty (20) Business Days or (y) such other time period established by the court of competent jurisdiction presiding over such Legal Proceeding.

Section 10.8 Governing Law. This Agreement and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be interpreted, construed, performed and enforced in accordance with the Laws of the State of Nevada without giving effect to its principles or rules of conflict of laws to the extent such principles or rules would require or permit the application of the Laws of another jurisdiction.

Section 10.9 Consent to Jurisdiction. In the event any dispute arises among the parties hereto out of or in relation to this Agreement, including any dispute regarding its breach, termination or validity, the parties shall attempt in the first instance to resolve such dispute through friendly consultations. If any dispute has not been resolved by friendly consultations within thirty (30) days after any party has served written notice on the other parties requesting the commencement of such consultations, then any party may demand that the dispute be finally settled by arbitration in accordance with the following provisions of this Section 10.9.

Subject to Section 10.7 and the last sentence of this Section 10.9, any disputes, actions and proceedings against any party or arising out of or in any way relating to this Agreement shall be submitted to the Hong Kong International Arbitration Centre ("**HKIAC**") and resolved in accordance with the Arbitration Rules of HKIAC in force at the relevant time (the "**Rules**") and as may be amended by this Section 9.09. The place of arbitration shall be Hong Kong. The official language of the arbitration shall be English and the arbitration tribunal shall consist of three arbitrators (each, an "**Arbitrator**"). The claimant(s), irrespective of number, shall nominate jointly one Arbitrator; the respondent(s), irrespective of number, shall nominate jointly one Arbitrator; and a third Arbitrator will be nominated jointly by the first two Arbitrators and shall serve as chairman of the arbitration tribunal. In the event the claimant(s) or respondent(s) or the first two Arbitrators shall fail to nominate or agree the joint nomination of an Arbitrator or the third Arbitrator within the time limits specified by the Rules, such Arbitrator shall be appointed promptly by the HKIAC. The arbitration tribunal shall have no authority to award punitive or other punitive-type damages.

The arbitration shall be conducted in private. The parties agree that all documents and evidence submitted in the arbitration (including without limitation any statements of case and any interim or final award, as well as the fact that an arbitral award has been made) shall remain confidential both during and after any final award that is rendered unless the parties hereto otherwise agree in writing. Upon and after the submission of any dispute to arbitration, the parties shall continue to exercise their remaining respective rights, and fulfill their remaining respective obligations under this Agreement, except insofar as the same may relate directly to the matters in dispute. The award of the arbitration tribunal shall be final and binding upon the disputing parties. Any party to an award may apply to any court of competent jurisdiction for enforcement of such award and, for purposes of the enforcement of such award, the parties irrevocably and unconditionally submit to the jurisdiction of any court of competent jurisdiction and waive any defenses to such enforcement based on lack of personal jurisdiction or inconvenient forum or the defense of sovereign immunity and any other defense based on the fact or allegation that it is an agency or instrumentality of a sovereign state or is otherwise entitled to immunity.

Section 10.10 WAIVER OF JURY TRIAL. EACH OF ACQUISITION AND THE COMPANY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR

COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ACQUISITION OR THE COMPANY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

Section 10.11 Company Disclosure Letter References. The parties hereto agree that the disclosure set forth in any particular section or subsection of the Company Disclosure Letter shall be deemed to be an exception to (or, as applicable, a disclosure for purposes of) (a) the representations and warranties (or covenants, as applicable) of the Company that are set forth in the corresponding section or subsection of this Agreement, and (ii) any other representations and warranties (or covenants, as applicable) of the Company that are set forth in this Agreement, but in the case of this clause (b) only if the relevance of that disclosure as an exception to (or a disclosure for purposes of) such other representations and warranties (or covenants, as applicable) is reasonably Acquisition on the face of such disclosure. The parties hereto further agree that the disclosure of any matter or item in the Company Disclosure Letter shall not be deemed to constitute an acknowledgement that such matter or item is required to be disclosed therein or is material to a representation or warranty set forth in this Agreement and shall not be used as a basis for interpreting the terms "material," "materially," Company Material Adverse Effect" or any word or phrase of similar import and does not mean that such matter or item would, alone or together with any other matter or item, have a Company Material Adverse Effect.

Section 10.12 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their respective duly authorized officers to be effective as of the date first above written.

China Yida Holding, Co.

By: /s/ Renjiu Pei
Name: Renjiu Pei
Title: Director

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their respective duly authorized officers to be effective as of the date first above written.

China Yida Holding Acquisition Co.

By: /s/ Minhua Chen
Name: Minhua Chen
Title: President

March 8, 2016

Special Committee of the Board of Directors

China Yida Holding, Co.
28/F Yifa Building, No. 111 Wusi Road
Fuzhou, Fujian, P. R. 350003, China

Members of the Special Committee:

ROTH Capital Partners, LLC ("we" or "ROTH") understands that China Yida Holding, Co., a corporation organized under the laws of the State of Nevada ("Yida" or the "Company"), and China Yida Holding Acquisition Co., a corporation organized under the laws of the State of Nevada ("Acquisition Co."), propose to enter into an Agreement and Plan of Merger, substantially in the form of the draft delivered to ROTH on March 1, 2016 (the "Merger Agreement"), which provides, among other things, for the merger (the "Merger") of Yida with and into Acquisition Co., and the separate corporate existence of Yida shall thereupon cease and Acquisition Co. shall continue as the surviving company following the Merger. Additional defined terms in this letter shall have the meaning set forth in the Merger Agreement. Pursuant to the Merger, each Company Share (other than Excluded Shares) that is issued and outstanding immediately prior to the Effective Time shall be canceled and cease to exist and automatically converted into the right to receive $3.32 in cash without interest (the "Merger Consideration"). The terms and conditions of the Merger are more fully set forth in the Merger Agreement.

You have asked for our opinion as to whether the Merger Consideration to be received by the holders of Company Shares (other than holders of Excluded Shares) pursuant to the Merger Agreement is fair from a financial point of view to such holders (other than holders of Excluded Shares).

For purposes of the opinion set forth herein, we have, among other things:

- reviewed certain publicly available financial statements and other business and financial information of Yida;
- reviewed certain internal financial statements and other financial and operating data concerning Yida prepared by the management of Yida;
- reviewed certain financial projections concerning Yida prepared by the management of Yida (the "Financial Projections");
- discussed the past and current operations, financial condition and the prospects of Yida with senior executives of Yida;
- reviewed the reported prices and trading activity for Yida common stock;
- reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions we deemed comparable with the Merger and compared such financial terms with those of the Merger;
- compared the financial performance of Yida and the prices and trading activity of Yida common stock with that of certain other publicly-traded companies we deemed comparable with Yida and its securities;
- participated in certain discussions with representatives of the Special Committee and its legal advisors;
- reviewed the Merger Agreement and a draft Limited Guarantee by Mr. Minhua Chen and Ms. Yanling Fan in favor of Yida delivered to ROTH on March 1, 2016 (the &ddquo;Limited Guarantee"); and
- performed such other analyses, reviewed such other information and considered such other factors as we have deemed appropriate.

We have assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made available to us by Yida, which formed a substantial basis for this opinion, and have further relied upon the assurances of the management of Yida that such information does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading in any material respect. With respect to the Financial Projections, we have been advised by the management of Yida, and assumed, that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of Yida of the future financial performance of Yida and we express no view as to the assumptions on which they are based. In addition, we have assumed that the final executed Merger Agreement will not differ in any material respect from the draft Merger Agreement reviewed by us, that the final executed Limited Guarantee will not differ in any material respect from the draft Limited Guarantee reviewed by us, and that the Merger will be consummated in accordance with the terms set forth in the Merger Agreement without any waiver, amendment or delay of any terms or conditions. We have also assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the proposed Merger, no delays, limitations, conditions or restrictions will be imposed that would have an adverse effect on Yida or the contemplated benefits expected to be derived in the proposed Merger. We are not legal, tax, accounting or regulatory advisors. We are financial advisors only and have relied upon, without independent verification, the assessment of Yida and its legal, tax, accounting and regulatory advisors with respect to legal, tax, accounting and regulatory matters. We express no opinion with respect to the fairness of the amount or nature of the compensation to any of the Company's officers, directors or employees, or any class of such persons, relative to the Merger Consideration to be received by the holders of Company Shares in the Merger. Our opinion does not address the fairness of any consideration to be received by Mr. Minhua Chen, Ms. Yanling Fan or their affiliates or the Rollover Shareholders pursuant to the Merger Agreement or to the holders of any other class of securities, creditors or other constituencies of Yida. Our opinion does not address the underlying business decision of Yida to enter into the Merger or the relative merits of the Merger as compared to any other alternative business transaction, or other alternatives, or whether or not such alternatives could be achieved or are available. We have not made any independent valuation or appraisal of the assets or liabilities (fixed, contingent or otherwise) of Yida, nor have we been furnished with any such valuations or appraisals, nor have we assumed any obligation to conduct, nor have we conducted, any physical inspection of the properties, facilities or other assets of Yida. We have not evaluated the solvency of Yida under any law of any jurisdiction relating to bankruptcy, insolvency or similar matters. As you know, we are not legal experts, and for purposes of our analysis, we have not made any assessment of the status of any outstanding litigation involving the Company and have excluded the effects of any such litigation in our analysis. 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 may affect this opinion and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this opinion.

We have acted as financial advisor to the Special Committee of the Board of Directors of Yida in connection with this transaction and will receive a fee for our services, part of which is contingent upon the closing of the Merger. The fee for this opinion is not contingent upon the consummation of the Merger. In addition, Yida has agreed to indemnify us for certain liabilities and other items arising out of our engagement, which indemnity obligation is not contingent on the consummation of the Merger.

ROTH is a full service securities firm engaged in securities trading and brokerage activities, as well as providing investment banking and other financial services. In the ordinary course of business, we and our affiliates may acquire, hold or sell, for our and our affiliates' own accounts and for the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of Yida and the other parties to the Merger, and, accordingly, may at any time hold a long or a short position in such securities. ROTH and its affiliates may in the future provide investment banking and other financial services to Acquisition Co. and their respective affiliates for which we would expect to receive compensation.

This opinion has been approved by a committee of ROTH investment banking and other professionals in accordance with our customary practice. This opinion is for the information of the Special Committee of the Board of Directors of the Company only and may not be used for any other purpose without our prior written consent, except that a copy of this opinion may be included in its entirety in any filing Yida is required to make with the Securities and Exchange Commission in connection with the Merger in accordance with the terms of our engagement letter with the Special Committee, if such inclusion is required by applicable law. In addition, ROTH expresses no opinion or recommendation as to how the shareholders of Yida should vote at the shareholders' meeting to be held in

connection with the Merger and this opinion does not in any manner address the prices at which Company Shares will trade at any time.

On the basis of and subject to the foregoing, and such other factors as we deemed relevant, we are of the opinion on the date hereof that the Merger Consideration to be received by the holders of Company Shares (other than the holders of Excluded Shares) pursuant to the Merger Agreement is fair from a financial point of view to such holders (other than the holders of Excluded Shares).

Very truly yours,

/s/ ROTH Capital Parnters

ROTH Capital Partners, LLC

ANNEX C
DIRECTORS AND EXECUTIVE OFFICERS OF EACH FILING PERSON

(a) The Company:

The following sets forth the name and position of each of the Company's current executive officers and directors:

Name	Position/Title with China Yida	Age	Other Occupation
Minhua Chen	Chairman and Chief Executive Officer	57	
Yanling Fan	Director and Chief Operating Officer	41	
Yongxi Lin	Chief Financial Officer	45	
Renjiu Pei	Director(1)(2)	49	Chairman of Fujian Tianren Huitong Investment Co., Ltd.
Chunyu Yin	Director(1)(2)	67	CEO of East Prosperity International Advertising Company
Fucai Huang	Director(1)(2)	67	Professor at Xiamen University Tourism Department

(1) Members of the Audit Committee
(2) Members of Compensation Committee

The following are biographical summaries for our directors and executive officers:

Minhua Chen

Mr. Minhua Chen has been the Chief Executive Officer of China Yida Holding, Co. since November 2007. Mr. Chen has been serving on the board of directors or senior management of our subsidiaries and affiliates including as a director for Fuzhou Hongda Commercial Services Co., Ltd., the Chairman for Fujian Jintai Tourism Developments Co., Ltd. the Chairman of Anhui Yida Tourism Development Co., Ltd., and the Chief Executive Officer of Jiangxi Fenyi Yida Tourism Development Co., Ltd. and Jiangxi Zhangshu Yida Tourism Development Co. For the past five years, Chairman Chen has been a part-time professor at the Tourism College of Fujian Normal University and a tutor for postgraduate students. He is also the vice-president of Fujian Provincial Tourism Institute and vice-president of Fujian Advertisement Association. From 1978 to 1992, he was a news journalist and editor-in-chief of "Fujian Internal Reference," eventually becoming the head of the journalist station of "Fujian Daily" in Sanming City and general manager of the newspaper "HK-Taiwan Information." During that period, he was appointed as chief journalist of Fujian Province to HK, where he was in charge of news and management of the publication. During these years, several of his works in journalism received national and provincial prizes and were published in books. He received awards for "Excellent News Journalist" and "Advanced Workers of News Management." Since 1992, Mr. Chen has worked full-time as Hong Kong Yi Tat's CEO and has run all the subsidiaries, including the media and tourism businesses. Since the establishment of New Handsome Joint Group in 1995, he has advocated and practiced the concept of "circulating cultural economy." In 2005, he published a scholarly treatise "General Theory of Tourism and Chinese Traditional Culture", which has been used as the educational material for undergraduates in Tourism College of Fujian Normal University. In February 2007, he was awarded as one of the "2006 Ten Most Distinguished Persons of Fujian Economic."

Yanling Fan

Ms. Yanling Fan has served as Chief Operating Officer of the Company since 2001 and a director of the Company since November 2007. She is the Executive Director of Fujian Jiaoguang Media Co., Ltd., Chairman for Fuzhou Hongda Commercial Services Co., Ltd., a Director of Fujian Jintai Tourism Developments Co., Ltd., and a member of the Board of Supervisors of Jiangxi Fenyi Yida Tourism Development Co., Ltd. and Jiangxi Zhangshu Yida Tourism Development Co. From 1992 to 1994, Ms. Fan was a journalist and radio anchorwoman for the Voice of Haixia. From 1995 to 2004, she was the general manager of New Handsome Advertisement Co., Ltd. Since 2000,

she has taken on the following positions: General Manager of New Handsome Joint Group (Fujian), General Manager of Hong Kong Yitat International Investment Co., Ltd, Chairman of Fujian Gold Lake Economy and Trading (Tourism) Development Co., Ltd., Director of Sydney Communication College (Australia), and General Manager of Fujian Education and Broadcasting Media Co., Ltd. In 2005, she was awarded "Fujian Splendid Women" and "Advanced worker of advertisement industry Fuzhou 2005."

Yongxi Lin

Mr. Yongxi Lin served as the Financial Controller of the Company since 2003 and was promoted to be the Chief Financial Officer since January 2012. He has extensive financial experience working at large-scale enterprises in Fujian province. Before joining the Company, Mr. Lin served as the Chief Financial Director at Fujian Furi Group Co., Ltd. for three years. From 1994 to 2000, he was an accountant for China Fujian International Economic and Technological Cooperation Company. Mr. Lin has been qualified as a Certified Public Accountant in China since 2000, and is a professional member of the Chinese Institute of the Certified Public Accountant. He received his bachelor degree in accounting from Xiamen University in 1994.

Renjiu Pei

Mr. Renjiu Pei has been a director of the Company since June 2013. He has served as chairman at Fujian Tianren Huitong Investment Co., Ltd. since 2013. Previously, Mr. Pei served as the managing director at Fujian Jinuo Investment & Guaranty Co., Ltd. from 2009 to 2011. He served as independent director at Anxin-China Holdings Limited (Hong Kong Exchange Stock Code: 01149) from 2004 to 2011. From 1990 to 2001, he served as supervisor of pharmacy in Fuzhou General Hospital. He received his master degree from Anhui Medical University in 1990. Mr. Pei received trainings in US GAAP. In 2001, he attended Corporate Compliance Seminars Audit Committee Workshop in Hong Kong which addressed the awareness of governance issues and audit committee effectiveness. In 2012, he participated in a study by CFA Institution regarding US GAAP Essentials in Kuala Lumpur which provided a detailed overview of the technical issues faced in producing US GAAP financial statements.

Chunyu Yin

Ms. Chunyu Yin has been a director of the Company since June 2009. Ms. Yin has a wealth of experience in China's advertising and media industry. Between 1984 and 2002, Ms. Yin served as the general manager of China's first state-owned cosmetics advertising company — Beijing Dabao Advertising Co. During those eighteen (18) years, the company's annual sales increased from 40 million to 1.5 billion RMB. After she left Beijing Dabao Advertising Co. in 2002, she served as manager in several advertising companies. Currently, she is the Chief Executive Officer of East Prosperity International Advertising Company, and a teaching professor at Beijing Union University Advertising School.

All of the advertising companies in which Ms. Yin served as manager are listed on the Top 100 Advertising Companies List in China. The well-known clients she served, or is currently serving, include Daobao Cosmetics, Haier, Hisense Electric, Ariston Refrigerator, Shanxi Fen Wine, Red Eagle, Furong Wang, Tsingtao Beer, and Yanjing Beer. Ms. Yin has also achieved acknowledgement and recognition in the media industry. She participated in planning, producing and filming many important TV programs and dramas, including "Walk into Taiwan," "China's Economic Reports," "1/2 Hour Economic Report," "CCTV Young Singer Competition," "Red Eagle Cinema" on Phoenix Channel, and the TV drama "The Prime Minister Liu Luoguo."

In addition, Ms. Yin organized several large-scale events for Chinese government's ministries and commissions and other international organizations: Putian Yanhuang Millennium, Dragon Board World Cup, China's Trade Marks around the World, 2004 Miss Universe Finale, 2007 Miss Japan International Finale, Hong Kong's Second International Mahjong Competitions.

Ms. Yin received her bachelor degree in Chinese from People's University of China in 1979.

Fucai Huang

Mr. Fucai Huang has been a director of the Company since June 2009. Mr. Huang, founder of Xiamen University Tourism Department, has served as a full-time professor at Xiamen University for 30 years. Currently, he is also the director of tourism management doctorate program of Xiamen University. Before he was appointed as the director of the doctorate program, he was in charge of the tourism management post-doctorate program and served as doctorate

student advisor. Before he joined Xiamen University, between 1989 and 1998, he was the director of Xiamen University Tourism Management Planning and Research Institute, a part time professor at the Tourism Department of Beijing International Studies University, and a consultant to Fujian tourism development.

Mr. Huang is an expert among China's tourism academics. Between March 2008 and March 2009, Mr. Huang was appointed by the China National Tourism Bureau to preside over the Open Tourism Market for Mainland Citizens' Travel to Taiwan and Related Management Issues. In 2006 and 2007, he was invited by the China National Tourism Bureau and Taiwan Office of CPC Central Committee to represent China's tourism academics to draft monographs and to participate in Strait Economic Trade Forum. Between 2005 and 2006, Mr. Huang engaged in the planning, research, and modification of display contents of China Fujian-Taiwan Kinship Museum sponsored by the Publicity Department of the CPC Central Committee and Fujian Provincial Committee. China Fujian-Taiwan Kinship Museum became the new tourism landmark of the west coast of Taiwan Strait, and a popular tourist attraction in Quanzhou, Fujian.

Mr. Huang obtained his bachelor degree in history from Xiamen University in 1976.

(b) Acquisition:

Mr. Chen and Ms. Fan are the directors of Acquisition. Acquisition does not have any executive officers.

ANNEX D
FORM OF PROXY CARD

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CHINA YIDA HOLDING, CO.

Proxy for Special Meeting of Stockholders on June 28, 2016
Solicited on Behalf of the Board of Directors

The undersigned hereby appoints Renjiu Pei, Chunyu Yin and Fucai Huang, and each of them, with full power of substitution and power to act alone, as proxies to vote all the shares of Common Stock which the undersigned would be entitled to vote if personally present and acting at the Special Meeting of Stockholders of China Yida Holding, Co., to be held June 28, 2016 at 9:00am, Beijing time, at 28/F, Yifa Building, No.111 Wusi Road, Fuzhou, Fujian Province, China 350003, and at any adjournments or postponements thereof, as follows:

(Continued and to be signed on the reverse side.)

■ 1.1 14475 ■

SPECIAL MEETING OF STOCKHOLDERS OF

CHINA YIDA HOLDING, CO.

June 28, 2016

PROXY VOTING INSTRUCTIONS

INTERNET - Access "www.voteproxy.com" and follow the on-screen instructions or scan the QR code with your smartphone. Have your proxy card available when you access the web page.

TELEPHONE - Call toll-free 1-800-PROXIES (1-800-776-9437) in the United States or 1-718-921-8500 from foreign countries from any touch-tone telephone and follow the instructions. Have your proxy card available when you call.

Vote online/phone until 11:59 PM EST the day before the meeting.

MAIL - Sign, date and mail your proxy card in the envelope provided as soon as possible.

IN PERSON - You may vote your shares in person by attending the Special Meeting.

GO GREEN - e-Consent makes it easy to go paperless. With e-Consent, you can quickly access your proxy material, statements and other eligible documents online, while reducing costs, clutter and paper waste. Enroll today via www.amstock.com to enjoy online access.

COMPANY NUMBER	
ACCOUNT NUMBER	

NOTICE OF INTERNET AVAILABILITY OF PROXY MATERIAL:
The Notice of Meeting, proxy statement and proxy card are available at http://www.astproxyportal.com/ast/17972/

Please detach along perforated line and mail in the envelope provided IF you are not voting via telephone or the Internet.

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THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR" EACH OF THE FOLLOWING PROPOSALS.
PLEASE SIGN, DATE AND RETURN PROMPTLY IN THE ENCLOSED ENVELOPE. PLEASE MARK YOUR VOTE IN BLUE OR BLACK INK AS SHOWN HERE [X]

YOU ARE ENCOURAGED TO SPECIFY YOUR CHOICES BY MARKING THE APPROPRIATE BOXES. WHERE A CHOICE IS NOT SPECIFIED, THE PROXIES WILL VOTE YOUR SHARES IN ACCORDANCE WITH THE BOARD OF DIRECTORS' RECOMMENDATIONS.

	FOR	AGAINST	ABSTAIN
1. ADOPTION OF THE AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER, DATED AS OF APRIL 12, 2016, AS IT MAY BE AMENDED FROM TIME TO TIME, BY AND BETWEEN CHINA YIDA HOLDING, CO. AND CHINA YIDA HOLDING ACQUISITION CO., AS DESCRIBED IN THE PROXY STATEMENT, AND APPROVAL OF THE MERGER CONTEMPLATED THEREBY.	☐	☐	☐
2. APPROVAL OF THE ADJOURNMENT OF THE SPECIAL MEETING, IF NECESSARY, TO SOLICIT ADDITIONAL PROXIES IF THERE ARE NOT SUFFICIENT VOTES TO ADOPT THE AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER AND APPROVE THE MERGER CONTEMPLATED THEREBY.	☐	☐	☐

In their discretion, the proxies are authorized to vote upon such other business as may properly come before the Special Meeting. This proxy when properly executed will be voted as directed herein by the undersigned stockholder. If no direction is made, this proxy will be voted FOR Proposals 1 and 2.

To change the address on your account, please check the box at right and indicate your new address in the address space above. Please note that changes to the registered name(s) on the account may not be submitted via this method. ☐

Signature of Stockholder _____ Date: _____ Signature of Stockholder _____ Date: _____

Note: Please sign exactly as your name or names appear on this Proxy. When shares are held jointly, each holder should sign. When signing as executor, administrator, attorney, trustee or guardian, please give full title as such. If the signer is a corporation, please sign full corporate name by duly authorized officer, giving full title as such. If signer is a partnership, please sign in partnership name by authorized person.

ANNEX E
NEVADA RIGHTS OF DISSENTING OWNERS

NRS 92A.300 Definitions. As used in NRS 92A.300 to 92A.500, inclusive, unless the context otherwise requires, the words and terms defined in NRS 92A.305 to 92A.335, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1995, 2086)

NRS 92A.305 "Beneficial shareholder" defined. "Beneficial shareholder" means a person who is a beneficial owner of shares held in a voting trust or by a nominee as the shareholder of record.

(Added to NRS by 1995, 2087)

NRS 92A.310 "Corporate action" defined. "Corporate action" means the action of a domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.315 "Dissenter" defined. "Dissenter" means a shareholder who is entitled to dissent from a domestic corporation's action under NRS 92A.380 and who exercises that right when and in the manner required by NRS 92A.400 to 92A.480, inclusive.

(Added to NRS by 1995, 2087; A 1999, 1631)

NRS 92A.320 "Fair value" defined. "Fair value," with respect to a dissenter's shares, means the value of the shares determined:

1. Immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable;

2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

3. Without discounting for lack of marketability or minority status.

(Added to NRS by 1995, 2087; A 2009, 1720)

NRS 92A.325 "Shareholder" defined. "Shareholder" means a shareholder of record or a beneficial shareholder of a domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.330 "Shareholder of record" defined. "Shareholder of record" means the person in whose name shares are registered in the records of a domestic corporation or the beneficial owner of shares to the extent of the rights granted by a nominee's certificate on file with the domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.335 "Subject corporation" defined. "Subject corporation" means the domestic corporation which is the issuer of the shares held by a dissenter before the corporate action creating the dissenter's rights becomes effective or the surviving or acquiring entity of that issuer after the corporate action becomes effective.

(Added to NRS by 1995, 2087)

NRS 92A.340 Computation of interest. Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the rate of interest most recently established pursuant to NRS 99.040.

(Added to NRS by 1995, 2087; A 2009, 1721)

NRS 92A.350 Rights of dissenting partner of domestic limited partnership. A partnership agreement of a domestic limited partnership or, unless otherwise provided in the partnership agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the partnership interest of a dissenting general or limited partner of a domestic limited partnership are available for any class or group of partnership interests in connection with any merger or exchange in which the domestic limited partnership is a constituent entity.

(Added to NRS by 1995, 2088)

NRS 92A.360 Rights of dissenting member of domestic limited-liability company. The articles of organization or operating agreement of a domestic limited-liability company or, unless otherwise provided in the articles of organization or operating agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the interest of a dissenting member are available in connection with any merger or exchange in which the domestic limited-liability company is a constituent entity.

(Added to NRS by 1995, 2088)

NRS 92A.370 Rights of dissenting member of domestic nonprofit corporation.

1. Except as otherwise provided in subsection 2, and unless otherwise provided in the articles or bylaws, any member of any constituent domestic nonprofit corporation who voted against the Merger may, without prior notice, but within 30 days after the effective date of the Merger, resign from membership and is thereby excused from all contractual obligations to the constituent or surviving corporations which did not occur before the member's resignation and is thereby entitled to those rights, if any, which would have existed if there had been no merger and the membership had been terminated or the member had been expelled.

2. Unless otherwise provided in its articles of incorporation or bylaws, no member of a domestic nonprofit corporation, including, but not limited to, a cooperative corporation, which supplies services described in chapter 704 of NRS to its members only, and no person who is a member of a domestic nonprofit corporation as a condition of or by reason of the ownership of an interest in real property, may resign and dissent pursuant to subsection 1.

(Added to NRS by 1995, 2088)

NRS 92A.380 Right of shareholder to dissent from certain corporate actions and to obtain payment for shares.

1. Except as otherwise provided in NRS 92A.370 and 92A.390 and subject to the limitation in paragraph (f), any shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of any of the following corporate actions:

(a) Consummation of a plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the shareholders is required for the Merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the shareholder is entitled to vote on the plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if the shareholder's shares are to be acquired in the plan of exchange.

(d) Any corporate action taken pursuant to a vote of the shareholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.

(f) Any corporate action not described in this subsection that will result in the shareholder receiving money or scrip instead of a fraction of a share except where the shareholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207. A dissent pursuant to this paragraph applies only to the fraction of a share, and the shareholder is entitled only to obtain payment of the fair value of the fraction of a share.

2. A shareholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating the entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the domestic corporation.

3. Subject to the limitations in this subsection, from and after the effective date of any corporate action described in subsection 1, no shareholder who has exercised the right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his or her shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to shareholders on a date before the effective date of any corporate action from which the shareholder has dissented. If a shareholder exercises the right to dissent with respect to a corporate action described in paragraph (f) of subsection 1, the restrictions of this subsection apply only to the shares to be converted into a fraction of a share and the dividends and distributions to those shares.

(Added to NRS by 1995, 2087; A 2001, 1414, 3199; 2003, 3189; 2005, 2204; 2007, 2438; 2009, 1721; 2011, 2814)

NRS 92A.390 Limitations on right of dissent: Shareholders of certain classes or series; action of shareholders not required for plan of merger.

1. There is no right of dissent with respect to a plan of merger, conversion or exchange in favor of shareholders of any class or series which is:

(a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended;

(b) Traded in an organized market and has at least 2,000 shareholders and a market value of at least $20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial shareholders owning more than 10 percent of such shares; or

(c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, and which may be redeemed at the option of the holder at net asset value, unless the articles of incorporation of the corporation issuing the class or series or the resolution of the board of directors approving the plan of merger, conversion or exchange expressly provide otherwise.

2. The applicability of subsection 1 must be determined as of:

(a) The record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting of shareholders to act upon the corporate action requiring dissenter's rights; or

(b) The day before the effective date of such corporate action if there is no meeting of shareholders.

3. Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the shareholders of the surviving domestic corporation under NRS 92A.130.

5. There is no right of dissent for any holders of stock of the parent domestic corporation if the plan of merger does not require action of the shareholders of the parent domestic corporation under NRS 92A.180.

(Added to NRS by 1995, 2088; A 2009, 1722; 2013, 1285)

NRS 92A.400 Limitations on right of dissent: Assertion as to portions only to shares registered to shareholder; assertion by beneficial shareholder.

1. A shareholder of record may assert dissenter's rights as to fewer than all of the shares registered in his or her name only if the shareholder of record dissents with respect to all shares of the class or series beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf the shareholder of record asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which the partial dissenter dissents and his or her other shares were registered in the names of different shareholders.

2. A beneficial shareholder may assert dissenter's rights as to shares held on his or her behalf only if the beneficial shareholder:

(a) Submits to the subject corporation the written consent of the shareholder of record to the dissent not later than the time the beneficial shareholder asserts dissenter's rights; and

(b) Does so with respect to all shares of which he or she is the beneficial shareholder or over which he or she has power to direct the vote.

(Added to NRS by 1995, 2089; A 2009, 1723)

NRS 92A.410 Notification of shareholders regarding right of dissent.

1. If a proposed corporate action creating dissenter's rights is submitted to a vote at a shareholders' meeting, the notice of the meeting must state that shareholders are, are not or may be entitled to assert dissenter's rights under NRS 92A.300 to 92A.500, inclusive. If the domestic corporation concludes that dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record shareholders entitled to exercise dissenter's rights.

2. If the corporate action creating dissenter's rights is taken by written consent of the shareholders or without a vote of the shareholders, the domestic corporation shall notify in writing all shareholders entitled to assert dissenter's rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

(Added to NRS by 1995, 2089; A 1997, 730; 2009, 1723; 2013, 1286)

NRS 92A.420 Prerequisites to demand for payment for shares.

1. If a proposed corporate action creating dissenter's rights is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenter's rights with respect to any class or series of shares:

(a) Must deliver to the subject corporation, before the vote is taken, written notice of the shareholder's intent to demand payment for his or her shares if the proposed action is effectuated; and

(b) Must not vote, or cause or permit to be voted, any of his or her shares of such class or series in favor of the proposed action.

2. If a proposed corporate action creating dissenter's rights is taken by written consent of the shareholders, a shareholder who wishes to assert dissenter's rights with respect to any class or series of shares must not consent to or approve the proposed corporate action with respect to such class or series.

3. A shareholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his or her shares under this chapter.

(Added to NRS by 1995, 2089; A 1999, 1631; 2005, 2204; 2009, 1723; 2013, 1286)

NRS 92A.430 Dissenter's notice: Delivery to shareholders entitled to assert rights; contents.

1. The subject corporation shall deliver a written dissenter's notice to all shareholders of record entitled to assert dissenter's rights in whole or in part, and any beneficial shareholder who has previously asserted dissenter's rights pursuant to NRS 92A.400.

2. The dissenter's notice must be sent no later than 10 days after the effective date of the corporate action specified in NRS 92A.380, and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the shareholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered and state that the shareholder shall be deemed to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

(Added to NRS by 1995, 2089; A 2005, 2205; 2009, 1724; 2013, 1286)

NRS 92A.440 Demand for payment and deposit of certificates; loss of rights of shareholder; withdrawal from appraisal process.

1. A shareholder who receives a dissenter's notice pursuant to NRS 92A.430 and who wishes to exercise dissenter's rights must:

(a) Demand payment;

(b) Certify whether the shareholder or the beneficial owner on whose behalf he or she is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit the shareholder's certificates, if any, in accordance with the terms of the notice.

2. If a shareholder fails to make the certification required by paragraph (b) of subsection 1, the subject corporation may elect to treat the shareholder's shares as after-acquired shares under NRS 92A.470.

3. Once a shareholder deposits that shareholder's certificates or, in the case of uncertified shares makes demand for payment, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 4.

4. A shareholder who has complied with subsection 1 may nevertheless decline to exercise dissenter's rights and withdraw from the appraisal process by so notifying the subject corporation in writing by the date set forth in the dissenter's notice pursuant to NRS 92A.430. A shareholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the subject corporation's written consent.

5. The shareholder who does not demand payment or deposit his or her certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his or her shares under this chapter.

(Added to NRS by 1995, 2090; A 1997, 730; 2003, 3189; 2009, 1724)

NRS 92A.450 Uncertificated shares: Authority to restrict transfer after demand for payment. The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

(Added to NRS by 1995, 2090; A 2009, 1725)

NRS 92A.460 Payment for shares: General requirements.

1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment pursuant to NRS 92A.440, the subject corporation shall pay in cash to each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of the dissenter's shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the subject corporation's principal office is located;

(b) If the subject corporation's principal office is not located in this State, in the county in which the corporation's registered office is located; or

(c) At the election of any dissenter residing or having its principal or registered office in this State, of the county where the dissenter resides or has its principal or registered office.

The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the shareholders' equity for that year or, where such financial statements are not reasonably available, then such reasonably equivalent financial information and the latest available quarterly financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; and

(c) A statement of the dissenter's rights to demand payment under NRS 92A.480 and that if any such shareholder does not do so within the period specified, such shareholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.

(Added to NRS by 1995, 2090; A 2007, 2704; 2009, 1725; 2013, 1287)

NRS 92A.470 Withholding payment for shares acquired on or after date of dissenter's notice: General requirements.

1. A subject corporation may elect to withhold payment from a dissenter unless the dissenter was the beneficial owner of the shares before the date set forth in the dissenter's notice as the first date of any announcement to the news media or to the shareholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, within 30 days after receipt of a demand for payment pursuant to NRS 92A.440, the subject corporation shall notify the dissenters described in subsection 1:

(a) Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;

(b) Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;

(c) That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;

(d) That those shareholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and

(e) That those shareholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.

3. Within 10 days after receiving the shareholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each shareholder who agreed to accept the subject corporation's offer in full satisfaction of the shareholder's demand.

4. Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each shareholder described in paragraph (e) of subsection 2.

(Added to NRS by 1995, 2091; A 2009, 1725; 2013, 1287)

NRS 92A.480 Dissenter's estimate of fair value: Notification of subject corporation; demand for payment of estimate.

1. A dissenter paid pursuant to NRS 92A.460 who is dissatisfied with the amount of the payment may notify the subject corporation in writing of the dissenter's own estimate of the fair value of his or her shares and the amount of interest due, and demand payment of such estimate, less any payment pursuant to NRS 92A.460. A dissenter offered payment pursuant to NRS 92A.470 who is dissatisfied with the offer may reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his or her shares and interest due.

2. A dissenter waives the right to demand payment pursuant to this section unless the dissenter notifies the subject corporation of his or her demand to be paid the dissenter's stated estimate of fair value plus interest under subsection 1 in writing within 30 days after receiving the subject corporation's payment or offer of payment under NRS 92A.460 or 92A.470 and is entitled only to the payment made or offered.

(Added to NRS by 1995, 2091; A 2009, 1726)

NRS 92A.490 Legal proceeding to determine fair value: Duties of subject corporation; powers of court; rights of dissenter.

1. If a demand for payment pursuant to NRS 92A.480 remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded by each dissenter pursuant to NRS 92A.480 plus interest.

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located in this State. If the principal office of the subject corporation is not located in this State, the right to dissent arose from a merger, conversion or exchange and the principal office of the surviving entity, resulting entity or the entity whose shares were acquired, whichever is applicable, is located in this State, it shall commence the proceeding in the county where the principal office of the surviving entity, resulting entity or the entity whose shares were acquired is located. In all other cases, if the principal office of the subject corporation is not located in this State, the subject corporation shall commence the proceeding in the district court in the county in which the corporation's registered office is located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of the dissenter's after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

(Added to NRS by 1995, 2091; A 2007, 2705; 2009, 1727; 2011, 2815; 2013, 1288)

NRS 92A.500 Assessment of costs and fees in certain legal proceedings.

1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. To the extent the subject corporation fails to make a required payment pursuant to NRS 92A.460, 92A.470 or 92A.480, the dissenter may bring a cause of action directly for the amount owed and, to the extent the dissenter prevails, is entitled to recover all expenses of the suit.

6. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

(Added to NRS by 1995, 2092; A 2009, 1727)

EXHIBIT 7

EXHIBIT 7

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): April 12, 2016

CHINA YIDA HOLDING, CO.
(Exact Name of Registrant as Specified in Charter)

Nevada	**000-26777**	**50-0027826**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification Number)

28/F Yifa Building, No. 111 Wusi Road Fuzhou, Fujian, P. R. China	**350003**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **+86 (591) 2830 2230**

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

Item 1.01 Entry into a Material Definitive Agreement.

Amended Merger Agreement

On April 12, 2016, China Yida Holding, Co. (the "Company") entered into an Amended and Restated Agreement and Plan of Merger (the "Amended Merger Agreement") amending and restating its previously announced Agreement and Plan of Merger, dated March 8, 2016 (the "Original Merger Agreement"), with China Yida Holding Acquisition Co., a Nevada corporation ("Acquisition", together with the Company, the "Parties").

Having determined that a merger in which the Company survives is a more efficient structure, the Parties agreed to amend the Original Merger Agreement principally to change the structure of the merger such that Acquisition will merge with and into the Company, with the Company surviving the Merger (the "Merger"). As a result of the Merger, (1) all of the shares of Acquisition common stock issued and outstanding immediately prior to the effective time of the Merger will be cancelled, and (2) each of the Company's shares of common stock issued and outstanding immediately prior to the effective time of the Merger (the "Shares") will be cancelled and automatically converted into a right to receive US$3.32 in cash without interest, except for the Shares (the "Principal Shares") owned by Mr. Minhua Chen and Mrs. Yanling Fan (the "Principal Shareholders") and the Shares held by shareholders who have exercised their rights to dissent from the Merger. After completion of the Merger, the Principal Shares will be the only issued and outstanding shares of the surviving company. Shares with respect to which dissenters' rights have been properly exercised and not withdrawn or lost will be cancelled in consideration for the right to receive the fair value of such dissenting shares in accordance with the Nevada Revised Statutes.

Rollover Agreement

As a result of the change in the structure as outlined above, the previously announced Rollover Agreement, dated as of March 8, 2016, by and among Acquisition and the Principal Shareholders was terminated pursuant to a termination agreement (the "Termination Agreement") which was entered into on April 12, 2016

Voting Agreement

As a result of the change in structure of the Merger, on April 12, 2016, the Company entered into a Voting Agreement with the Principal Shareholders (the "Voting Agreement"), pursuant to which the Principal Shareholders have agreed to vote all of the Principal Shares in favor of the approval and adoption of the Amended Merger Agreement, and the transactions contemplated thereby, including the Merger.

Amended Limited Guarantee

Concurrently with the execution of the Original Merger Agreement, the Principal Shareholders, entered into a Limited Guarantee in favor of the Company, guaranteeing certain payment obligations of Acquisition pursuant to the Original Merger Agreement. As a result of the changes contained in the Amended Merger Agreement, the Principal Shareholders have entered into an Amended and Restated Limited Guarantee in favor of the Company (the "Amended Limited Guarantee"), also dated April 12, 2016, containing only non-substantive changes to conform to the Amended Merger Agreement

The foregoing descriptions of the Amended Merger Agreement, the Voting Agreement, the Termination Agreement and the Amended Limited Guarantee do not purport to be complete and are qualified in their entirety by reference to the Amended Merger Agreement, the Voting Agreement, the Amended Limited Guarantee and the Termination Agreement, copies of which are filed as Exhibit 2.1, Exhibit 9.1, Exhibit 9.2 and Exhibit 9.3 hereto, respectively, and are incorporated herein in their entirety by reference.

Board Recommendation; Proxy Materials

The Board of Directors of the Company (the "Board of Directors"), based upon the unanimous recommendation of a special committee of the Board of Directors comprised solely of independent directors (the "Special Committee"), approved and adopted the Amended Merger Agreement, and has recommended that the Company's stockholders vote to approve the Amended Merger Agreement.

In connection with the Special Meeting of stockholders to be held to approve the proposed Merger, the Company will prepare and mail a proxy statement to its stockholders. In addition, certain participants in the proposed transaction will prepare and mail to the Company's stockholders a Schedule 13E-3 transaction statement. These documents will be filed with the Securities and Exchange Commission (the "SEC"). INVESTORS AND STOCKHOLDERS ARE URGED TO READ CAREFULLY AND IN THEIR ENTIRETY THESE MATERIALS AND OTHER MATERIALS FILED WITH THE SEC CAREFULLY WHEN THEY BECOME AVAILABLE, AS THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT ACQUISITION, THE COMPANY, THE MERGER, THE PERSONS SOLICITING PROXIES IN CONNECTION WITH THE MERGER ON BEHALF OF THE COMPANY AND THE INTERESTS OF THOSE PERSONS IN THE MERGER AND RELATED MATTERS. In addition to receiving the proxy statement and Schedule 13E-3 transaction statement by mail, stockholders also will be able to obtain these documents, as well as other filings containing information about the Company, the proposed Merger and related matters, without charge, from the SEC's website (http://www.sec.gov) or at the SEC's public reference room at 100 F Street, NE, Room 1580, Washington, D.C. 20549. In addition, these documents can be obtained, without charge, by contacting the Company at China Yida Holding, Co., 28/F Yifa Building, No. 111 Wusi Road, Fuzhou, Fujian, P. R. China telephone: 86 (591) 2830 2230. E-mail: jocelynchen@yidacn.net.

Participants in the Solicitation

The Company and certain of its directors, executive officers and other members of management and employees may, under SEC rules, be deemed to be "participants" in the solicitation of proxies from the Company's stockholders with respect to the proposed Merger. Information regarding the persons who may be considered "participants" in the solicitation of proxies will be set forth in the proxy statement and Schedule 13E-3 transaction statement relating to the proposed Merger when it is filed with the SEC. Additional information regarding the interests of such potential participants will be included in the proxy statement and Schedule 13E-3 transaction statement and the other relevant documents filed with the SEC when they become available.

Cautionary Note Regarding Forward-Looking Statements

Certain statements contained in this announcement may be viewed as "forward-looking statements" within the meaning of Section 27A of U.S. Securities Act of 1933, as amended, and Section 21E of the U.S. Securities Act of 1934, as amended. Such forward-looking statements involve known and unknown risks, uncertainties and other factors, which may cause the actual performance, financial condition or results of operations of the Company to be materially different from any future performance, financial condition or results of operations implied by such forward-looking statements. Detailed information regarding factors that may cause actual results to differ materially from the results expressed or implied by statements in this press release may be found in the Company's periodic filings with the SEC, including the factors described in the section entitled "Risk Factors" in its annual report on Form 10-K for the year ended December 31, 2015. The accuracy of these statements may be affected by a number of business risks and uncertainties that could cause actual results to differ materially from those projected or anticipated. The Company undertakes no ongoing obligation, other than that imposed by law, to update these statements.

Item 8.01 Other Events.

On April 13, 2016 the Company issued a press release announcing its entry into the Amended Merger Agreement. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
2.1	Amended and Restated Agreement and Plan of Merger, dated as of April 12, 2016, by and between China Yida Holding, Co. and China Yida Holding Acquisition Co.
9.1	Voting Agreement, dated as of April 12, 2016, by and among China Yida Holding, Co., Mr. Minhua Chen and Mrs. Yanling Fan
9.2	Amended and Restated Limited Guarantee, dated as of April 12, 2016, by Mr. Minhua Chen and Mrs. Yanling Fan in favor of China Yida Holding, Co.
9.3	

	Termination Agreement, dated as of April 12, 2016, by and among China Yida Holding Acquisition, Co., Mr. Minhua Chen and Mrs. Yanling Fan.
99.1	Press Release dated April 13, 2016

SIGNATURES

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

CHINA YIDA HOLDING, CO.

Dated: April 13, 2016

By: /s/ Yongxi Lin
Name: Yongxi Lin
Title: Chief Financial Officer

EXHIBIT 8

EXHIBIT 8

EX-2.1 2 f8k041216ex2i_chinayida.htm AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER, DATED AS OF APRIL 12, 2016, BY AND BETWEEN CHINA YIDA HOLDING, CO. AND CHINA YIDA HOLDING ACQUISITION CO.

Exhibit 2.1

Execution Version

AMENDED AND RESTATED

AGREEMENT AND PLAN OF MERGER

BY AND BETWEEN

CHINA YIDA HOLDING, CO.

AND

CHINA YIDA HOLDING ACQUISITION CO.

Dated as of April 12, 2016

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Execution Version

AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER

THIS AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER (this "**Agreement**") is made and entered into as of April 12, 2016 by and between China Yida Holding Co. a corporation organized under the laws of the State of Nevada (the "**Company**"), and China Yida Holding Acquisition Co., a corporation organized under the laws of the State of Nevada ("**Acquisition**").

WITNESSETH:

WHEREAS, the Company and Acquisition entered into a certain agreement and plan of merger as of March 8, 2016 (the "**Original Merger Agreement**"), and now the Company and Acquisition wish to amend and restate the Original Merger Agreement in its entirety in the form of this Agreement, which shall for all purposes be deemed to supersede the Original Merger Agreement;

WHEREAS, it is proposed that Acquisition will merge with and into the Company in accordance with the Nevada Revised Statutes (the "**NRS**") Chapter 92A, and the terms and conditions of this Agreement (the "**Merger**"), with the Company surviving the Merger;

WHEREAS, the Company Board has established a special committee of the Company Board consisting of independent directors (the "**Special Committee**") to, among other things, review, evaluate, negotiate, recommend or not recommend any offer by Acquisition to acquire securities of the Company;

WHEREAS, the Special Committee has unanimously recommended that the Company Board approve this Agreement and the Merger and the other transactions contemplated hereby;

WHEREAS, the Company Board (acting upon the unanimous recommendation of the Special Committee) has (i) unanimously approved this Agreement, and approved the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (ii) resolved to recommend that the Company Shareholders authorize this Agreement and the Merger in accordance with the NRS;

WHEREAS, the board of directors of Acquisition (i) approved this Agreement and approved the execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (ii) resolved to authorize and approve this Agreement and the consummation of the transactions contemplated hereby, including the Merger, in accordance with the NRS;

WHEREAS, as a condition to and inducement of the Company's willingness to enter into this Agreement, concurrently with the execution and delivery of this Agreement, each of Mr. Minhua Chen and Mrs. Yanling Fan (each, a "**Guarantor**"), is entering into an amended and restated limited guarantee (the "**Limited Guarantee**"), a true copy of which is attached hereto as **Exhibit A**, in favor of the Company to guarantee the due and punctual payment, performance and discharge of certain payment obligations of Acquisition under this Agreement;

WHEREAS, concurrently with the execution and delivery of this Agreement, and as a condition and inducement to Acquisition willingness to enter into this Agreement, each of the Principal Shareholders (as hereinafter defined) has executed and delivered a voting agreement, dated as of the date hereof and attached hereto as **Exhibit B**, between the Principal Shareholders and the Company (together with the schedules and exhibits attached thereto, the "**Voting Agreement**"), pursuant to which the Principal Shareholders agree to vote all their Company Shares held directly or indirectly by them in favor of the authorization and approval of this Agreement, as may be amended from time to time, and the transactions contemplated hereby;

WHEREAS, the Principal Shareholders and Acquisition executed that certain rollover agreement dated as of March 8, 2016 (the "**Rollover Agreement**"), which agreement is terminated and no longer of any force or effect upon the execution of the Voting Agreement;

WHEREAS, Acquisition and the Company desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and the transactions contemplated hereby to prescribe certain conditions with respect to the consummation of the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, and intending to be legally bound hereby, Acquisition and the Company hereby agree as follows:

ARTICLE I
DEFINITIONS & INTERPRETATIONS

Section 1.1 Certain Definitions. For all purposes of and under this Agreement, the following capitalized terms shall have the following respective meanings:

"**Acquisition Proposal**" shall mean any offer or proposal (other than an offer or proposal by Acquisition) to engage in an Acquisition Transaction.

"Acquisition Termination Fee" shall mean an amount equal to $375,000.

"**Acquisition Transaction**" shall mean any transaction (other than the transactions contemplated by this Agreement) involving: (i) the purchase or other acquisition by any Person or "group" (as defined in or under Section 13(d) of the Exchange Act), directly or indirectly, of more than twenty percent (20%) of the Company Shares outstanding as of the consummation of such purchase or other acquisition, or any tender offer or exchange offer by any Person or "group" (as defined in or under Section 13(d) of the Exchange Act) that, if consummated in accordance with its terms, would result in such Person or "group" beneficially owning more than twenty percent (20%) of the Company Shares outstanding as of the consummation of such tender or exchange offer; or (ii) a sale, transfer, acquisition or disposition of more than twenty percent (20%) of the consolidated assets of the Company and its Subsidiaries taken as a whole (measured by the fair market value thereof), or to which twenty percent (20%) or more of the net revenue or net income of the Company on a consolidated basis are attributable.

"**Affiliate**" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. For purposes of the immediately preceding sentence, the term "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, 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. For the avoidance of doubt, a Subsidiary of a Person shall be deemed an Affiliate of such Person.

"**Business Day**" shall mean any day, other than a: (i) day which is a Saturday or Sunday; (ii) day which is a legal holiday under the Laws of the State of Nevada, Hong Kong or the PRC; or (iii) day on which banking institutions located in the State of Nevada, Hong Kong or the PRC are authorized or required by Law or Order to close.

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

"**Company Balance Sheet**" shall mean the unaudited consolidated balance sheet of the Company and its Subsidiaries as of September 30, 2015.

"**Company Balance Sheet Date**" shall mean September 30, 2015.

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

"Company Disclosure Letter" shall mean the disclosure schedule delivered by the Company to Acquisition on the date of this Agreement.

"**Company Material Adverse Effect**" shall mean any change, effect, event or development (each a "**Change**", and collectively, "**Changes**"), individually or in the aggregate, that has had or would reasonably be expected to have a material adverse effect on the business, condition (financial or otherwise) or results of operations of the Company and its Subsidiaries, taken as a whole; provided that no Change (by itself or when aggregated or taken together with any and all other Changes) directly or indirectly resulting from, relating to or arising out of any of the following shall be deemed to be or constitute a "Company Material Adverse Effect," or be taken into account when determining whether a "Company Material Adverse Effect" has occurred:

(i) general economic conditions (or changes in such conditions) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(ii) conditions (or changes in such conditions) in the securities markets, capital markets, credit markets, currency markets or other financial markets in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business, including any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally on any securities exchange or over-the-counter market;

(iii) conditions (or changes in such conditions) in the industries in which the Company and its Subsidiaries conduct business;

(iv) political conditions (or changes in such conditions) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business or acts of war, sabotage or terrorism (including any escalation or general worsening of any such acts of war, sabotage or terrorism) in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(v) earthquakes, hurricanes, tsunamis, tornadoes, floods, mudslides, wild fires or other natural disasters, weather conditions and other force majeure events in the United States, the PRC or any other country or region in the world in which the Company or any of its Subsidiaries operates or conducts business;

(vi) changes in Law (or the interpretation thereof) or in GAAP or other accounting standards (or in each case the interpretation thereof) used by the Company or any of its Subsidiaries;

(vii) the announcement of this Agreement or the pendency or consummation of the transactions contemplated hereby, including (A) the identity of, or any facts or circumstances relating to, Acquisition, (B) the loss or departure of officers or other employees of the Company or any of its Subsidiaries directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement, (C) the termination or potential termination of (or the failure or potential failure to renew or enter into) any Contracts with customers, suppliers, distributors or other business partners, whether as a direct or indirect result of the loss or departure of officers or employees of the Company or any of its Subsidiaries or otherwise, directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement, and (D) any other negative development (or potential negative development) in the Company's or any of its Subsidiaries' relationships with any of its customers, suppliers, distributors or other business partners, whether as a direct or indirect result of the loss or departure of officers or employees of the Company or any of its Subsidiaries or otherwise, directly or indirectly resulting from, arising out of, attributable to, or related to the transactions contemplated by this Agreement;

(viii) changes in the Company's stock price or the trading volume of the Company's stock, or any failure by the Company to meet any public estimates or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period, or any failure by the Company to meet any internal budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations (it being understood that the underlying cause of such failure may, except as otherwise provided in the other clauses of this proviso, be taken into account in determining whether a Company Material Adverse Effect has occurred); and

(ix) any legal proceedings made or brought by any of the current or former shareholders of the Company (on their own behalf or on behalf of the Company) against the Company or any other legal proceedings arising out of the Merger or in connection with any other transactions contemplated by this Agreement;

except to the extent such effects directly or indirectly resulting from, arising out of, attributable to or related to the matters described in clauses (i) through (vi) above materially and disproportionately affect the Company and its Subsidiaries, taken as a whole, as compared to other companies that conduct business in the countries and regions in the world and in the industries in which the Company and its Subsidiaries operate or conduct business (in which case, such effects may be taken into account when determining whether a "Company Material Adverse Effect" has occurred, but only to the extent of such disproportionate effects (if any)).

"**Company Options**" shall mean any options, rights or warrants to purchase Company Shares.

"**Company Share**" shall mean an ordinary share of common stock, par value $0.001 per share, in the share capital of the Company.

"**Company Shareholders**" shall mean holders of Company Shares in their capacities as such.

"**Company Termination Fee**" shall mean an amount equal to $375,000.

"**Contract**" shall mean any written contract, subcontract, agreement, commitment, note, bond, mortgage, indenture or lease.

"**Exchange Act**" shall mean the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules and regulations thereto.

"**Excluded Shares**" shall mean (i) Company Shares owned by Acquisition, any of its Affiliates (such as the Principal Shares) or the Company (as treasury shares, if any), in each case immediately prior to the Effective Time and/or (ii) Dissenting Shares.

"**GAAP**" shall mean generally accepted accounting principles, as applied in the United States.

"**Governmental Authority**" shall mean any government, any governmental or regulatory entity or body (including a securities exchange), department, commission, board, agency or instrumentality, and any court, tribunal or judicial body of competent jurisdiction.

"**IRS**" shall mean the United States Internal Revenue Service or any successor thereto.

"**Knowledge**" shall mean, (i) with respect to the Company, with respect to any matter in question, shall mean the actual knowledge of the individuals listed in Section 1.1 of the Company Disclosure Letter, as of the date of this Agreement, and (ii) with respect to any of Acquisition or the Principal Shareholders, the actual knowledge of any of the shareholders, officers or directors of Acquisition or the Principal Shareholders.

"**Law**" shall mean any and all applicable law, statute, constitution, principle of common law, ordinance, code, rule, regulation, ruling or other legal requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Authority.

"**Legal Proceeding**" shall mean any lawsuit, litigation or other similarly formal legal proceeding brought by or pending before any Governmental Authority.

"**Lien**" shall mean any lien, pledge, hypothecation, charge, mortgage, security interest, encumbrance, or community property interest.

"**Material Contract**" shall mean any "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC.

"**NASDAQ**" shall mean the NASDAQ Stock Market.

"**Order**" shall mean any order, judgment, decision, decree, injunction, ruling, writ or assessment of any Governmental Authority (whether temporary, preliminary or permanent) that is binding on any Person or its property under applicable Law.

"**Permitted Liens**" shall mean any of the following: (i) Liens for Taxes, assessments and governmental charges or levies either not yet delinquent or which are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established on the consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP as adjusted in the ordinary course of business through the Effective Time; (ii) mechanics, carriers', workmen's, warehouseman's, repairmen's, materialmen's or other Liens that are not yet due or that are being contested in good faith and by appropriate proceedings; (iii) leases and subleases (other than capital leases and leases underlying sale and leaseback transactions) and non-exclusive licenses; (iv) Liens imposed by applicable Law (other than Tax Law) which are not currently violated by the current use or occupancy of any real property or the operation of the business thereon; (v) pledges or deposits to secure obligations under workers' compensation Laws or similar legislation or to secure public or statutory obligations; (vi) pledges and deposits to secure the performance of bids, trade contracts, leases, surety and appeal bonds, performance bonds and other obligations of a similar nature, in each case in the ordinary course of business consistent with past practice; (vii) defects, imperfections or irregularities in title, easements, covenants and rights of way (unrecorded and of record) and other similar restrictions, and zoning, building and other similar codes or restrictions, in each case that do not adversely affect in any material respect the current use of the applicable property owned, leased, used or held for use by the Company or any of its Subsidiaries; (viii) Liens the existence of which are disclosed in the notes to the consolidated financial statements of the Company included in the Company's Annual Report on Form 10-K for the fiscal year ended 31 December 2014; (ix) Liens which do not materially and adversely affect the use or operation of the property subject thereto; (x) any other Liens that do not secure a liquidated amount, that have been incurred or suffered in the ordinary course of business consistent with past practice and that have not had a Company Material Adverse Effect; (xi) Liens arising in connection with the VIE Agreements; and (xii) Liens described in Section 1.1 of the Company Disclosure Letter.

"**Person**" shall mean any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or Governmental Authority.

"**PRC**" shall mean the People's Republic of China excluding, for the purposes of this Agreement only, the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan.

"**Principal Shares**" shall mean the Company Shares beneficially owned (as determined pursuant to Rule 13d-3 under the Exchange Act) by any Principal Shareholders.

"**Principal Shareholders**" shall mean Mr. Minhua Chen and Mrs. Yanling Fan.

"**Representatives**" shall mean, with respect to any Person, such Person's Affiliates and such Person and its Affiliates' respective shareholders, directors, officers or other employees, or investment bankers, attorneys or other authorized advisors, agents or representatives.

"**RMB**" shall mean *renminbi*, the legal currency of the PRC.

"**Sarbanes-Oxley Act**" shall mean the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules or regulations thereto.

"**SEC**" shall mean the United States Securities and Exchange Commission or any successor thereto.

"**Securities Act**" shall mean the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules or regulations thereto.

"**Subsidiary**" of any Person shall mean (i) a corporation more than fifty percent (50%) of the combined voting power of the outstanding voting stock of which is owned, directly or indirectly, by such Person or by one of more other Subsidiaries of such Person or by such Person and one or more other Subsidiaries thereof, (ii) a partnership of which such Person, or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, is the general partner and has the power to direct the policies, management and affairs of such partnership, (iii) a limited liability company of which such Person or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, is the managing member and has the power to direct the policies, management and affairs of such company or (iv) any other Person (other than a corporation, partnership or limited liability company) in which such Person, or one or more other Subsidiaries of such Person or such Person and one or more other Subsidiaries thereof, directly or indirectly, has at least a majority ownership and power to direct the policies, management and affairs thereof, or (v) any Person such Person controls through VIE Agreements.

"**Superior Proposal**" shall mean any bona fide written Acquisition Proposal for an Acquisition Transaction (with all percentages included in the definition of Acquisition Transaction increased to 50%) that the Company Board reasonably determines (upon recommendation of the Special Committee, if in existence), in its good faith judgment, after consultation with its financial advisor and outside legal counsel, and taking into account relevant legal, financial and regulatory aspects of such offer or proposal (including the likelihood and timing of the consummation thereof based upon, among other things, the availability of financing and the expectation of obtaining required approvals), the identity of the Person or group making the offer or proposal and any changes to the terms of this Agreement proposed by Acquisition in response to such offer or proposal or otherwise, to be (i) more favorable, including from a financial point of view, to the Company Shareholders (other than the Principal Shareholders) than the Merger and (ii) reasonably likely to be consummated, provided however in the event of a proposal other than a cash proposal by means of any merger, consolidation, share exchange, business combination, scheme of arrangement, amalgamation, recapitalization, liquidation, dissolution or other similar transaction the proposal shall be from a party whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Company or to which 20% or more of the total revenue, operating income or EBITDA of the Company.

"**Tax**" shall mean any and all PRC and non-PRC taxes, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes, together with all interest, penalties and additions imposed with respect to such amounts.

"**VIE Agreements**" shall mean agreements between Fujian Jiaoguang or any variable interest entity and the Company or any of its Affiliates.

Section 1.2 Additional Definitions. The following capitalized terms shall have the respective meanings ascribed thereto in the respective sections of this Agreement.

"**Acquisition**" shall have the meaning set forth in the preamble.

"**Agreement**" shall have the meaning set forth in the preamble.

"**Alternative Acquisition Agreement**" shall have the meaning set forth in Section 5.3(b).

"**Arbitrator**" shall have the meaning set forth in Section 10.9.

"**Articles of Merger**" shall have the meaning set forth in Section 2.3.

"**Capitalization Date**" shall have the meaning set forth in Section 3.7.

"**Certificates**" shall have the meaning set forth in Section 2.8(c).

"**Closing**" shall have the meaning set forth in Section 2.2.

"**Closing Date**" shall have the meaning set forth in Section 2.2.

"**Company**" shall have the meaning set forth in the preamble.

"**Company Board Recommendation**" shall have the meaning set forth in Section 5.3(a).

"**Company Board Recommendation Change**" shall have the meaning set forth in Section 5.3(b).

"**Company Securitie**s" shall have the meaning set forth in Section 3.7(b).

"**Company SEC Reports**" shall have the meaning set forth in Section 3.9.

"**Company Shareholders Meeting**" shall have the meaning set forth in Section 7.3(d).

"**Consent**" shall have the meaning set forth in Section 3.6.

"**Dissenting Shareholder**" shall have the meaning set forth in Section 2.7(c).

"**Dissenting Shares**" shall have the meaning set forth in Section 2.7(c).

"**Effective Time**" shall have the meaning set forth in Section 2.3.

"**Exchange Fund**" shall have the meaning set forth in Section 2.8(b).

"**Guarantor**" shall have the meaning set forth in the preamble.

"**HKIAC**" shall have the meaning set forth in Section 10.9.

"**Indemnified Person**" shall have the meaning set forth in Section 7.7(a).

"**In-the-Money Vested Company Option**" shall have the meaning set forth in Section 2.7(d).

"**Limited Guarantee**" shall have the meaning set forth in the preamble.

"**Merger**" shall have the meaning set forth in the preamble.

"**NRS**" shall have the meaning set forth in the preamble.

"**Option Consideratio**n" shall have the meaning set forth in Section 2.7(d).

"**Outside Date**" shall have the meaning set forth in Section 9.1(b).

"**Paying Agent**" shall have the meaning set forth in Section 2.8(a).

"**Permits**" shall have the meaning set forth in Section 3.14.

"**Per Share Merger Consideration**" shall have the meaning set forth in Section 2.7(a)(ii).

"**Preliminary Proxy Statement**" shall have the meaning set forth in Section 7.3(a).

"**Proxy Statement**" shall have the meaning set forth in Section 7.3(a).

"**Recommendation Change Notice**" shall have the meaning set forth in Section 5.3(c).

"**Requisite Shareholder Approval**" shall have the meaning set forth in Section 3.4.

"**Rules**" shall have the meaning set forth in Section 10.9.

"**Schedule 13E-3**" shall have the meaning set forth in Section 3.6.

"**Secretary of State**" shall have the meaning set forth in Section 2.3.

"**Special Committee**" shall have the meaning set forth in the preamble.

"**Subsidiary Securities**" shall have the meaning set forth in Section 3.8(c).
"**Surviving Company**" shall have the meaning set forth in Section 2.1.

"**Takeover Statutes**" shall have the meaning set forth in Section 3.19.

"**Tax Returns**" shall have the meaning set forth in Section 3.13(a).

"**Voting Agreement**" shall have the meaning set forth in the preamble.

Section 1.3 Certain Interpretations.

(a) Unless otherwise indicated, all references herein to Articles, Sections, Annexes, Exhibits or Schedules, shall be deemed to refer to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement, as applicable.

(b) Unless otherwise indicated, the words "include," "includes" and "including," when used herein, shall be deemed in each case to be followed by the words "without limitation."

(c) The table of contents and headings set forth in this Agreement are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Agreement or any term or provision hereof.

(d) Unless otherwise indicated, all references herein to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person unless otherwise indicated or the context otherwise requires.

(e) Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

(f) Any dollar or percentage thresholds set forth herein shall not be used as a benchmark for the determination of what is or is not "material" or a "Company Material Adverse Effect" under this Agreement.

(g) References to "$" refer to U.S. dollars.

(h) When used herein, the word "extent" and the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such word or phrase shall not simply mean "if."

(i) The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

ARTICLE II
THE MERGER

Section 2.1 The Merger. Upon the terms and subject to the satisfaction or, if permissible, waiver of the conditions set forth in this Agreement and the applicable provisions of the NRS, at the Effective Time, Acquisition shall be merged with and into the Company, the separate corporate existence of Acquisition shall thereupon cease and the Company shall continue as the surviving company of the Merger. The Company as the surviving company of the Merger, is sometimes referred to herein as the "**Surviving Company**".

Section 2.2 The Closing. Unless this Agreement shall have been terminated in accordance with Article IX, the closing of the Merger (the "**Closing**") will occur at the offices of Sidley Austin LLP, Suite 2009, 5 Corporate Avenue, 150 Hubin Road, Shanghai, China on a date and at a time to be agreed upon by Acquisition and the Company, which date shall be no later than the fifth (5th) Business Day after the satisfaction or waiver of the last to be satisfied of the conditions set forth in Article VIII (excluding conditions that by their terms are to be satisfied on the Closing Date, but subject to the satisfaction or waiver of such conditions at the Closing), or at such other location, date and time as Acquisition and the Company shall mutually agree upon in writing. The date upon which the Closing shall actually occur pursuant hereto is referred to herein as the "**Closing Date**".

Section 2.3 The Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Acquisition and the Company shall cause the Merger to be consummated under the NRS by executing and filing the Articles of Merger ("**Articles of Merger**"), with the Secretary of State of Nevada (the "**Secretary of State**") in accordance with Section 92A.200 of the NRS, together with such other appropriate documents, in such forms as are required by, and executed in accordance with, the applicable provisions of the NRS. The Merger shall become effective on the date and at such time as the Articles of Merger shall have been duly filed with the Secretary of State or such later time as may be agreed in writing by Acquisition and the Company and specified in the Articles of Merger (the effective date and time of the Merger being referred to herein as the "**Effective Time**").

Section 2.4 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement and the applicable provisions of the NRS. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all of the property, rights, privileges, powers and franchises of the Company and Acquisition shall vest in the Surviving Company, and all debts, liabilities and duties of the Company and Acquisition shall become the debts, liabilities and duties of the Surviving Company.

Section 2.5 Articles of Incorporation; Bylaws.

(a) Articles of Incorporation. At the Effective Time, subject to the provisions of Section 7.7, the articles of incorporation of Acquisition, as in effect immediately prior to the Effective Time, shall become the articles of incorporation of the Surviving Company (save and except that references therein to the name and the authorized capital of Acquisition shall be amended to describe correctly the name and authorized capital of the Surviving Company) until thereafter amended in accordance with the applicable provisions of the NRS and such articles of incorporation.

(b) Bylaws. At the Effective Time, subject to the provisions of Section 7.7(a), the bylaws of Acquisition, as in effect immediately prior to the Effective Time, shall become the bylaws of the Surviving Company (save and except that references therein to the name shall be amended to describe correctly the name of the Surviving Company) until thereafter amended in accordance with the applicable provisions of the NRS and such bylaws.

Section 2.6 Directors and Officers.

(a) Directors. At the Effective Time, the initial directors of the Surviving Company shall be the directors of Acquisition immediately prior to the Effective Time, each to hold office until their respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the bylaws of the Surviving Company.

(b) Officers. At the Effective Time, the initial officers of the Surviving Company shall be the officers of the Company immediately prior to the Effective Time, each to hold office until their respective successors are duly appointed or until their earlier death, resignation or removal in accordance with the bylaws of the Surviving Company.

Section 2.7 Effect on Share Capital of the Company.

(a) Share Capital. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, by virtue of the Merger and without any action on the part of Acquisition, the Company or the holders of any of the following securities, the following shall occur:

(i) Share Capital of Acquisition. Each common share, par value US$0.001 per share, in the share capital of Acquisition that is issued and outstanding immediately prior to the Effective Time shall be cancelled.

(ii) Company Shares. Each Company Share other than Excluded Shares that is issued and outstanding immediately prior to the Effective Time shall be canceled and cease to exist and automatically converted, subject to Section 2.7(b), into the right to receive $3.32 in cash without interest (the "**Per Share Merger Consideration**") payable in the manner provided in Section 2.8 (or in the case of a lost, stolen or destroyed Certificate, upon delivery of an affidavit in the manner provided in Section 2.11).

(iii) Dissenting Shares. Each Dissenting Share that is issued and outstanding immediately prior to the Effective Time shall be cancelled and cease to exist, in consideration for the right to receive the fair value of such Dissenting Share as provided in Section 2.7(c), and the register of shareholders of the Company shall be amended accordingly.

(iv) Principal Shares. Each Principal Share that is issued and outstanding immediately prior to the Effective Time shall remain in effect as issued and outstanding shares of the Company, fully paid and non-assessable. Such share(s) of common stock shall be the only issued and outstanding share(s) of capital stock of the Surviving Company, which shall be reflected in the stock ledger of the Surviving Company.

(b) Certain Adjustments. The Per Share Merger Consideration shall be adjusted appropriately to reflect the effect of any share split, reverse share split, share dividend (including any dividend or distribution of securities convertible into Company Shares), reclassification, combination, exchange of shares, or other like change with respect to Company Shares occurring, or with a record date, on or after the date hereof and prior to the Effective Time, and such adjustment to the Per Share Merger Consideration shall provide to the holders of Company Shares the same economic effect as contemplated by this Agreement prior to such action.

(c) Statutory Dissenters Rights. Notwithstanding anything in this Agreement to the contrary, any Company Shares that are issued and outstanding immediately prior to the Effective Time and are held by a Company Shareholder (each, a "**Dissenting Shareholder**") who has validly exercised and not lost its rights to dissent from the Merger pursuant to the NRS (collectively, the "**Dissenting Shares**") shall not be converted into or exchangeable for or represent the right to receive the Per Share Merger Consideration (except as provided in this Section 2.7(c)), and shall entitle such Dissenting Shareholder only to payment of the fair value of such Dissenting Shares as determined in accordance with the NRS. If any Dissenting Shareholder shall have effectively withdrawn (in accordance with the NRS) or lost the right to dissent, then upon the occurrence of such event, the Dissenting Shares held by such Dissenting Shareholder shall cease to be Excluded Shares, and shall be cancelled and converted into and represent the right to receive the Per Share Merger Consideration at the Effective Time, pursuant to Section 2.7(a)(ii).

(d) Company Options. Each outstanding, unexercised and vested Company Options or, as applicable, the vested portion of a Company Option with a per share exercise price less than the Per Share Merger Consideration (each an **"In-the-Money Vested Company Option"**) shall, automatically and without any required action on the part of the holder thereof, be converted into the right to receive an amount in cash equal to the excess of (i) the Per Share Merger Consideration over (ii) the exercise price of such In-the-Money Vested Company Option, multiplied by the number of Company Shares underlying such In-the-Money Vested Company Option (the "**Option Consideration**"). Each vested Company Option outstanding and unexercised immediately prior to the Effective Time with a per share exercise price greater than or equal to the Per Share Merger Consideration shall automatically be cancelled as of the Effective Time without any consideration payable in respect thereof. On the Closing Date, or as promptly as practicable thereafter (but in no event later than five days thereafter), Acquisition shall pay to each holder of an In-the-Money Vested Company Option the aggregate Option Consideration payable to such holder of In-the-Money Vested Company Options pursuant to this Section 2.7(d). Such cash consideration shall be rounded down to the nearest cent and Acquisition shall be entitled to deduct and withhold from such cash consideration all amounts required to be deducted and withheld under the Code, the rules and regulations promulgated thereunder, or any other applicable Laws. To the extent that amounts are so withheld by Acquisition, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the In-the-Money Vested Company Options with respect to whom such amounts were withheld by Acquisition. Notwithstanding anything contained herein to the contrary, no Option Consideration shall be paid to a holder of Principal Shares.

Section 2.8 Exchange of Certificates.

(a) Paying Agent. Prior to the Closing, Acquisition shall select a bank, transfer agent or trust company reasonably acceptable to the Company to act as the paying agent for the Merger (the "**Paying Agent**") and, in connection therewith, shall enter into an agreement with the Paying Agent in a form reasonably acceptable to the Company.

(b) Exchange Fund. Prior to the Effective Time, Acquisition shall deposit (or cause to be deposited) with the Paying Agent, for payment to the holders of Company Shares an amount of cash equal to the aggregate consideration to which holders of Company Shares become entitled under this Article II. Until disbursed in accordance with the terms and conditions of this Agreement, such funds shall be invested by the Paying Agent, as directed by Acquisition, in obligations of or guaranteed by the United States of America or obligations of an agency of the United States of America which are backed by the full faith and credit of the United States of America (such cash amount being referred to herein as the "**Exchange Fund**"). Any interest and other income resulting from such investments shall be paid to Acquisition. To the extent that there are any losses with respect to any investments of the Exchange Fund, or the Exchange Fund diminishes for any reason below the level required for the Paying Agent to promptly pay the cash amounts contemplated by this Article II, Acquisition shall promptly replace or restore the cash in the Exchange Fund so as to ensure that the Exchange Fund is at all times maintained at a level sufficient for the Paying Agent to make such payments contemplated by this Article II.

(c) Payment Procedures. Promptly following the Effective Time (and in any event within three Business Days), the Surviving Company shall cause the Paying Agent to mail or otherwise disseminate to each holder of record (as of immediately prior to the Effective Time) of (i) a certificate or certificates (the "**Certificates**") which immediately prior to the Effective Time represented outstanding Company Shares (A) a letter of transmittal in customary form (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Paying Agent, and/or (B) instructions for use in effecting the surrender of the Certificates in exchange for the Per Share Merger Consideration payable in respect thereof pursuant to the provisions of this Article II. Upon surrender of Certificates for cancellation to the Paying Agent or to such other agent or agents as may be appointed by Acquisition, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, the holders of such Certificates shall be entitled to receive in exchange therefor an amount in cash equal to the Per Share Merger Consideration to which the holder thereof is entitled pursuant to Section 2.7(a)(ii), and the Certificates so surrendered shall forthwith be canceled. Upon receipt of an "agent's message" by the Paying Agent (or such other evidence, if any, of transfer as the Paying Agent may reasonably request) in the case of a book entry transfer of uncertificated Shares, the holders of such uncertificated Shares shall be entitled to receive in exchange for the cancellation of such uncertificated Shares an amount in cash equal to the Per Share Merger Consideration to which the holder thereof is entitled pursuant to Section 2.7(a)(ii), and the uncertificated Shares shall forthwith be canceled. The Paying Agent shall accept such Certificates and transferred uncertificated Shares upon compliance with such reasonable terms and conditions as the Paying Agent may impose to effect an orderly exchange thereof in accordance with normal exchange practices. No interest shall be paid or accrued for the benefit of holders of the Certificates and uncertificated Shares on the Per Share Merger Consideration payable upon the surrender of such Certificates and uncertificated Shares pursuant to this Section 2.8. Until so surrendered, outstanding Certificates and uncertificated Shares shall be deemed from and after the Effective Time, to evidence only the right to receive the Per Share Merger Consideration, without interest thereon, payable in respect thereof pursuant to the provisions of this Article II.

(d) Transfers of Ownership. In the event that a transfer of ownership of Company Shares is not registered in the share transfer books or register of shareholders of the Company, or if the Per Share Merger Consideration is to be paid in a name other than that in which the Company Shares (whether represented by Certificates or uncertificated Shares) are registered in the share transfer books or register of shareholders of the Company, the Per Share Merger Consideration may be paid to a Person other than the Person in whose name Company Share (whether represented by a Certificate or an uncertificated Share) so cancelled is registered in the share transfer books or register of shareholders of the Company only if such Certificate or uncertificated Share is properly endorsed and otherwise in proper form for surrender and transfer and the Person requesting such payment has paid to Acquisition (or any agent designated by Acquisition) any transfer Taxes required by reason of the payment of the Per Share Merger Consideration to a Person other than the registered holder of such Certificate or uncertificated Shares, or established to the satisfaction of Acquisition (or any agent designated by Acquisition) that such transfer Taxes have been paid or are otherwise not payable.

(e) Required Withholding. Each of the Paying Agent and the Surviving Company (and any other Person that has a withholding obligation pursuant to this Agreement) shall only be entitled to deduct and withhold or cause to be deducted and withheld from any cash amounts payable pursuant to this Agreement such amounts as may be required to be deducted or withheld therefrom under applicable Tax Laws and that are either (i) U.S. federal backup withholding tax to a payee that does not provide the required documentation with respect to its U.S. tax status. In the event that the Paying Agent, or the Surviving Company (or other Person) determines that any such permitted deduction or withholding is required to be made from any amounts payable pursuant to this Agreement, the Paying Agent or the Surviving Company (or other Person), as applicable, shall promptly inform the Special Committee and the other parties hereto of such determination and provide them with a reasonably detailed explanation of such determination and the parties hereto shall consult with each other in good faith regarding such determination. To the extent that such amounts are so deducted, withheld and remitted to the applicable Governmental Authority, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

(f) No Liability. Notwithstanding anything to the contrary set forth in this Agreement, none of the Paying Agent, the Surviving Company or any other party hereto shall be liable to a holder of Company Shares for any amount properly paid to a public official pursuant to any applicable abandoned property, escheat or similar Law.

(g) Distribution of Exchange Fund to Surviving Company. Any portion of the Exchange Fund that remains undistributed to the holders of the Certificates, uncertificated Shares on the date that is twelve (12) months after the Effective Time shall be delivered to the Surviving Company upon demand, and any holders of Company Shares that were issued and outstanding immediately prior to the Effective Time who have not theretofore surrendered their Certificates, uncertificated Shares representing such Company Shares for exchange pursuant to the provisions of this Section 2.8 shall thereafter look for payment of the Per Share Merger Consideration payable in respect of the Company Shares represented by such Certificates, uncertificated Shares solely to the Surviving Company, as general creditors thereof, for any claim to the applicable Per Share Merger Consideration to which such holders may be entitled pursuant to the provisions of this Article II. Any portion of the Exchange Fund remaining unclaimed by Company Shareholders as of a date which is immediately prior to such time as such amounts would otherwise escheat to or become property of any Governmental Authority shall, to the extent permitted by applicable Law, become the property of the Surviving Company free and clear of any claims or interest of any person previously entitled thereto.

Section 2.9 No Further Ownership Rights. From and after the Effective Time, all Company Shares, except for the Principal Shares, shall no longer be outstanding and shall automatically be cancelled, retired and cease to exist, and each holder of a Certificate, uncertificated Shares theretofore representing any Company Shares shall cease to have any rights with respect thereto, except the right to receive the Per Share Merger Consideration payable therefor upon the surrender thereof in accordance with the provisions of Section 2.8. The Per Share Merger Consideration paid in accordance with the terms of this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to such Company Shares. From and after the Effective Time, there shall be no further registration of transfers on the records of the Surviving Company of Company Shares that were issued and outstanding immediately prior to the Effective Time, other than transfers to reflect, in accordance with customary settlement procedures, trades effected prior to the Effective Time. If, after the Effective Time, Certificates, uncertificated Shares are presented to the Surviving Company for any reason, they shall be canceled and exchanged as provided in this Article II.

Section 2.10 Untraceable and Dissenting Shareholders. Remittances for the Per Share Merger Consideration shall not be sent to Company Shareholders who are untraceable unless and until, except as provided below, they notify the Paying Agent of their current contact details prior to the Effective Time. A Company Shareholder will be deemed to be untraceable if (a) he has no registered address in the register of shareholders maintained by the Company; (b) on the last two consecutive occasions on which a dividend has been paid by the Company a check payable to such Company Shareholder either (i) has been sent to such Company Shareholder and has been returned undelivered or has not been cashed; or (ii) has not been sent to such shareholder because on an earlier occasion a check for a dividend so payable has been returned undelivered, and in any such case, no valid claim in respect thereof has been communicated in writing to the Company; or (c) notice of the Company Shareholders Meeting convened to vote on the Merger has been sent to such Company Shareholder and has been returned undelivered. Monies due to Dissenting Shareholders and Company Shareholders who are untraceable shall be returned to the Surviving Company. Monies unclaimed after a period of two years from the date of the notice of the Company Shareholders Meeting shall be forfeited and shall revert to the Surviving Company. Dissenting Shareholders and Company Shareholders who are untraceable who subsequently wish to receive any monies otherwise payable in respect of the Merger within applicable time limits or limitation periods should contact the Surviving Company.

Section 2.11 Lost, Stolen or Destroyed Certificates. In the event that any Certificates shall have been lost, stolen or destroyed, the Paying Agent shall issue in exchange for such lost, stolen or destroyed Certificates, upon the making of an affidavit of that fact by the holder thereof, the Per Share Merger Consideration payable in respect thereof pursuant to Section 2.7.

Section 2.12 Fair Value. Acquisition and the Company respectively agree that the Per Share Merger Consideration represent the fair value of the Company Shares.

Section 2.13 Necessary Further Actions. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Company with full right, title and possession to all assets, property, rights, privileges, powers and franchises of the Company and Acquisition, the directors and officers of the Company and Acquisition shall take any such lawful and necessary action.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except (i) as set forth in the Company Disclosure Letter, or (ii) as set forth in the Company SEC Reports filed by the Company with the SEC (other than in any "risk factor" disclosure or any other forward looking statements or other disclosures included in such documents that are generally cautionary or forward-looking in nature), the Company hereby represents and warrants to Acquisition as follows:

Section 3.1 Organization and Qualification. The Company and each of its Subsidiaries is an entity duly organized and validly existing under the Laws of the jurisdiction of its organization and has the requisite corporate or similar power and authority to conduct its business as it is presently being conducted and to own, lease or operate its properties and assets, except where the failure to be so organized or existing or to have such power and authority would not have a Company Material Adverse Effect. The Company and each of its Subsidiaries is duly qualified to do business and is in good standing (to the extent either such concept is recognized under applicable Law) in each jurisdiction where the character of its properties owned or leased or the nature of its activities make such qualification necessary, except where the failure to be so qualified or in good standing has not had a Company Material Adverse Effect.

Section 3.2 Corporate Power; Enforceability. The Company has all requisite corporate power and authority to execute and deliver this Agreement, to perform its covenants and obligations under this Agreement and, subject to obtaining the Requisite Shareholder Approval, to consummate the transactions contemplated by this Agreement. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement and the consummation by the Company of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of the Company and no additional corporate proceedings on the part of the Company are necessary to authorize the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement or the consummation of the transactions contemplated by this Agreement other than obtaining the Requisite Shareholder Approval and filing the Articles of Merger with the Secretary of State. This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Acquisition, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity.

Section 3.3 Board Actions. At a meeting duly called and held prior to the execution of this Agreement, the Company Board (acting upon the recommendation of the Special Committee) (a) approved this Agreement and approved the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and agreements contained herein and the consummation of the transactions contemplated hereby in accordance with the NRS upon the terms and subject to the conditions contained herein and (b) resolved to recommend that the holders of Company Shares authorize and approve this Agreement and the Merger.

Section 3.4 Requisite Shareholder Approval. The affirmative vote of Company Shareholders representing a majority or more of the issued and outstanding Company Shares present and voting in person or by proxy as a single class at the Company Shareholders Meeting (the "**Requisite Shareholder Approval**") is the only vote or approval of the holders of any class or series of share capital of the Company that is necessary to authorize and approve this Agreement and consummate the Merger.

Section 3.5 Non-Contravention. The execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations under this Agreement and the consummation by the Company of the transactions contemplated by this Agreement do not (a) violate or conflict with any provision of the articles of incorporation, bylaws or other organizational documents of the Company, (b) subject to obtaining such Consents set forth in Section 3.5 of the Company Disclosure Letter, violate, conflict with or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any Material Contract, (c) assuming the Consents referred to in Section 3.5 of the Company Disclosure Letter are obtained or made and subject to obtaining the Requisite Shareholder Approval, violate or conflict with any Law or Order applicable to the Company or any of its Subsidiaries or by which any of their properties or assets are bound or (d) result in the creation of any Lien (other than Permitted Liens) upon any of the properties or assets of the Company or any of its Subsidiaries, except in the case of each of clauses (b), (c) and (d) above, for such violations, conflicts, defaults, terminations, accelerations or Liens which would not have a Company Material Adverse Effect or prevent or materially delay the consummation by the Company of the transactions contemplated hereby or the performance by the Company of its covenants and obligations hereunder.

Section 3.6 Required Governmental Approvals. No consent, approval, Order or authorization of, or filing or registration with, or notification to (any of the foregoing being referred to herein as a "**Consent**"), any Governmental Authority is required on the part of the Company in connection with the execution and delivery by the Company of this Agreement, the performance by the Company of its covenants and obligations hereunder and the consummation by the Company of the transactions contemplated hereby, except (a) the filing and registration of the Articles of Merger with the Secretary of State (b) such filings and approvals as may be required by any United States federal or state securities laws, including compliance with any applicable requirements of the Exchange Act, including the joining of the Company in the filing of the Rule 13e-3 Transaction Statement on Schedule 13E-3 (including any amendments or supplements thereto, the "**Schedule 13E-3**") and the furnishing of Form 8-K with the Proxy Statement (c) such filings as may be required for compliance with the rules and regulations of the NASDAQ, and (d) such other Consents, the failure of which to obtain would not have a Company Material Adverse Effect or prevent or materially delay the consummation by the Company of the transactions contemplated hereby or the ability of the Company to perform its covenants and obligations hereunder.

Section 3.7 Company Capitalization.

(a) The authorized share capital of the Company consists of 10,000,000 shares of preferred stock, par value $0.0001 and 100,000,000 Company Shares, par value $.001 per share. As of the close of business in New York City on March 8, 2016 (the "**Capitalization Date**"): 3,914,580 Company Shares were issued and outstanding and none of the preferred shares were issued and outstanding. All outstanding Company Shares are, when issued in accordance with the terms thereof, validly issued, fully paid, non-assessable and free of any preemptive rights. Since the Capitalization Date, the Company has not issued any Company Shares.

(b) Except as set forth in the Section 3.7 of the Company Disclosure Letter, there are (i) no outstanding shares of capital stock of, or other equity or voting interest in, the Company, (ii) no outstanding securities of the Company convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (iii) no outstanding options, warrants, rights or other commitments or agreements to acquire from the Company, or that obligates the Company to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (iv) no obligations of the Company to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, the Company (the items in clauses (i), (ii), (iii) and (iv), together with the capital stock of the Company, being referred to collectively as "**Company Securities**") and (v) no other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any Company Securities. Neither the Company nor any of its Subsidiaries is a party to any Contract which obligates the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Company Securities.

Section 3.8 Subsidiaries.

(a) Section 3.8 of the Company Disclosure Letter contains a complete and accurate list of the name, jurisdiction of organization, capitalization and schedule of shareholders of each Subsidiary of the Company.

(b) All of the outstanding capital stock of, or other equity or voting interest in, each Subsidiary of the Company (i) have been duly authorized, validly issued and are fully paid and nonassessable and (ii) are owned, directly or indirectly, by the Company, free and clear of all Liens (other than Permitted Liens) and free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other equity or voting interest) that would prevent the operation by the Surviving Company or such Subsidiary's business as presently conducted.

(c) There are no outstanding (i) securities of the Company or any of its Subsidiaries convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, any Subsidiary of the Company, (ii) options, warrants, rights or other commitments or agreements to acquire from the Company or any of its Subsidiaries, or that obligate the Company or any of its Subsidiaries to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, any Subsidiary of the Company, (iii) obligations of the Company to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, any Subsidiary of the Company (the items in clauses (i), (ii) and (iii), together with the capital stock of the Subsidiaries of the Company, being referred to collectively as "**Subsidiary Securities**"), or (iv) other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any shares of any Subsidiary of the Company. Neither the Company nor any of its Subsidiaries is a party to any Contract which obligates the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any outstanding Subsidiary Securities, except in connection with the VIE Agreements.

Section 3.9 Company SEC Reports. Since December 31, 2014, the Company has filed all material forms, reports and documents with the SEC that have been required to be filed by it under applicable Laws prior to the date hereof (all such forms, reports and documents, together with all exhibits and schedules thereto, the "**Company SEC Reports**"). As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), (a) each Company SEC Report complied as to form in all material respects with the applicable requirements of the Securities Act or the Exchange Act, as the case may be, each as in effect on the date such Company SEC Report was filed, and (b) each Company SEC Report did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. True and correct copies of all Company SEC Reports filed prior to the date hereof have been furnished to Acquisition or are publicly available in the Electronic Data Gathering, Analysis and Retrieval (EDGAR) database of the SEC. None of the Company's Subsidiaries is required to file any forms, reports or other documents with the SEC.

Section 3.10 Company Financial Statements. The consolidated financial statements of the Company and its Subsidiaries filed with the Company SEC Reports (including the related notes an schedules) have been prepared (or in the case of Company SEC Reports filed after the date hereof, will be prepared) in accordance with GAAP consistently applied during the periods and at the dates involved, and fairly present (or in the case of Company SEC Reports filed after the date hereof, will fairly present) in all material respects the consolidated financial position of the Company and its Subsidiaries as of the dates thereof and the consolidated results of operations and cash flows for the periods then ended (subject, in the case of unaudited quarterly statements, to normal year-end adjustments).

Section 3.11 Absence of Certain Changes.

(a) Since the Company Balance Sheet Date through the date hereof, except for actions taken or not taken in connection with the transactions contemplated by this Agreement, the business of the Company and its Subsidiaries has been conducted, in all material respects, in the ordinary course consistent with past practice, and there has not been or occurred, and there does not exist, any Company Material Adverse Effect that is continuing.

(b) Since the Company Balance Sheet Date through the date hereof, neither the Company nor any of its Subsidiaries has taken any action that would be prohibited by Section 5.1(b) if such section had been in effect since the Company Balance Sheet Date.

Section 3.12 Material Contracts.

(a) Section 3.12(a) of the Company Disclosure Letter contains a complete and accurate list of all Material Contracts to or by which the Company or any of its Subsidiaries is a party as of the date of this Agreement. As of the date hereof, true and complete copies of all Material Contracts have been (i) publicly filed with the SEC or (ii) made available to Acquisition.

(b) Each Material Contract is valid and binding on the Company (and/or each such Subsidiary of the Company party thereto) and, to the Knowledge of the Company, each other party thereto, and is in full force and effect, enforceable against the Company or each such Subsidiary of the Company party thereto, as the case may be, in accordance with its terms, except that such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (ii) is subject to general principles of equity. Neither the Company nor any of its Subsidiaries that is a party to a Material Contract, nor, to the Knowledge of the Company, any other party thereto, is in breach of, or default under, any such Material Contract, and no event has occurred that with notice or lapse of time or both would constitute such a breach or default thereunder by the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any other party thereto, except for such breaches and defaults that have not had a Company Material Adverse Effect.

Section 3.13 Tax Matters.

(a) The Company and each of its Subsidiaries (i) have timely filed (taking into account any extensions of time in which to file) all returns, estimates, claims for refund, information statements and reports or other similar documents with respect to Taxes (including amendments, schedules, or attachments thereto) relating to any and all Taxes ("**Tax Returns**") required to be filed with any Governmental Authority by any of them and all such filed Tax Returns are true, correct and complete in all material aspects and were prepared in compliance with all applicable Laws in all material aspects, (ii) have paid, or have adequately reserved (in accordance with GAAP) on the most recent financial statements contained in the Company SEC Reports for the payment of, all Taxes required to be paid through the Company Balance Sheet Date, and (iii) have not incurred any liability for Taxes since the Company Balance Sheet Date other than in the ordinary course of business consistent with past practice. No deficiencies for any Taxes have been asserted in writing or assessed in writing, or to the Knowledge of the Company, proposed, against the Company or any of its Subsidiaries that are not subject to adequate reserves on the consolidated financial statements of the Company and its Subsidiaries (in accordance with GAAP) as adjusted in the ordinary course of business through the Effective Time, nor has the Company or any of its Subsidiaries executed any waiver of any statute of limitations on or extending the period for the assessment or collection of any Tax. There are no Liens (other than Permitted Liens) on any of the assets of the Company or its Subsidiaries for Taxes.

(b) The representations and warranties contained in this Section 3.13 are the only representations and warranties of the Company and its Subsidiaries with respect to Taxes, and no other representation or warranty contained in any other section of this Agreement shall apply to any such Tax matters.

Section 3.14 Permits. The Company and its Subsidiaries have, and are in compliance with the terms of, all permits, licenses, authorizations, consents, approvals and franchises from Governmental Authorities required to conduct their businesses as currently conducted ("**Permits**"), and no suspension or cancellation of any such Permits is pending or, to the Knowledge of the Company, threatened, except for such noncompliance, suspensions or cancellations that have not had a Company Material Adverse Effect.

Section 3.15 Compliance with Laws. The Company and each of its Subsidiaries is in compliance with all Law and Orders applicable to the Company and its Subsidiaries, except for such noncompliance that has not had a Company Material Adverse Effect. No representation or warranty is made in this Section 3.15 with respect to (a) compliance with the Exchange Act, to the extent such compliance is covered in Section 3.6 and Section 3.9 or (b) applicable laws with respect to Taxes, which are covered solely in Section 3.13.

Section 3.16 Litigation. There is no Legal Proceeding pending or, to the Knowledge of the Company, threatened in writing against the Company, any of its Subsidiaries or any of the respective properties of the Company or any of its Subsidiaries that has had a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is subject to any outstanding Order that has had a Company Material Adverse Effect.

Section 3.17 Related Party Transactions. None of the directors or executive officers of the Company or individuals owning, directly or indirectly, an interest in the voting power of the Company that gives them significant influence over the Company and its Subsidiaries taken as a whole, since the Company Balance Sheet Date, has had any transaction with the Company or any of its Subsidiaries which is material to the Company and its Subsidiaries taken as a whole (other than employment relationship or serving as a director). The Company and its Subsidiaries have not, since the Company Balance Sheet Date, extended or maintained credit, arranged for the extension of credit or renewed an extension of credit in the form of a personal loan to or for any director or executive officer of the Company.

Section 3.18 Opinion of Financial Advisor. The Special Committee received the opinion of ROTH Capital Partners LLC, the financial advisor to the Special Committee, dated as of the date hereof, to the effect that, as of the date of this Agreement, the Per Share Merger Consideration to be received by the holders of Company Shares pursuant to this Agreement is fair from a financial point of view to such holders.

Section 3.19 Anti-Takeover Provisions. The Company is not party to a Shareholder rights agreement, "poison pill" or similar agreement or plan. None of the requirements or restrictions of (a) the Nevada "combinations with interested Shareholders" statutes, NRS 78.411 through 78.444, inclusive, or (b) the Nevada "acquisition of controlling interest" statutes, NRS 78.378 through 78.3793, inclusive (collectively, the "**Takeover Statutes**") would apply to prevent the consummation of any of the transactions contemplated by this Agreement, including the Merger.

Section 3.20 No Other Company Representations or Warranties. Except for the representations and warranties set forth in Article III, Acquisition hereby acknowledges and agrees that (a) neither the Company nor any of its Subsidiaries, nor any of their respective Representatives, has made or is making any other express or implied representation or warranty with respect to the Company or any of its Subsidiaries or their respective business or operations, including with respect to any information provided or made available to Acquisition or any of its Representatives, and (b) neither the Company nor any of its Subsidiaries, nor any of their respective Representatives, will have or be subject to any liability or indemnification obligation or other obligation of any kind or nature to Acquisition or any of its Representatives, resulting from the delivery, dissemination or any other distribution to Acquisition or any of its Representatives, or the use by Acquisition or any of its Representatives, of any such information provided or made available to any of them by the Company or any of its Subsidiaries, or any of their respective Representatives, including any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material provided or made available to Acquisition or any of its Representatives, in "data rooms," confidential information memoranda or management presentations in anticipation or contemplation of the Merger or any other transactions contemplated by this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF ACQUISITION

Acquisition hereby represents and warrants to the Company as follows:

Section 4.1 Organization; Good Standing. Acquisition is duly organized and validly existing under the Laws of the State of Nevada and has the requisite corporate power and authority to conduct its business as it is presently being conducted and to own, lease or operate its properties and assets. Acquisition is duly qualified to do business and is in good standing (to the extent either such concept is recognized under applicable Law) in each jurisdiction where the character of its properties owned or leased or the nature of its activities makes such qualification necessary, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder. Acquisition has previously furnished to the Company a true and complete copy of the articles of incorporation and bylaws of Acquisition, each as amended or modified to date, as in effect as of the date of this Agreement. Such articles of incorporation and bylaws are in full force and effect as of the date hereof. Acquisition is not in violation of any provision of its articles of incorporation or bylaws in any material respect.

Section 4.2 Corporate Power; Enforceability. Acquisition has the requisite corporate power and authority to execute and deliver this Agreement, to perform covenants and obligations under this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement and the consummation by Acquisition of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate or other action on the part of Acquisition, and no other corporate or other proceeding on the part of Acquisition is necessary to authorize the execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement or the consummation by Acquisition of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by Acquisition and, assuming the due authorization, execution and delivery by the Company, constitutes a legal, valid and binding obligation of Acquisition, enforceable against it in accordance with its terms, except that such enforceability (a) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting or relating to creditors' rights generally, and (b) is subject to general principles of equity.

Section 4.3 Non-Contravention. The execution and delivery by Acquisition of this Agreement, the performance by Acquisition of its covenants and obligations under this Agreement and the consummation by Acquisition of the transactions contemplated by this Agreement do not and will not (a) violate or conflict with any provision of the Articles of Incorporation, (b) violate, conflict with, or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, contract, agreement or other instrument or obligation to which Acquisition is a party or by which Acquisition or any of its properties or assets may be bound, (c) assuming the Consents referred to in Section 3.5 of the Company Disclosure Letter are obtained or made, violate or conflict with any Law or Order applicable to Acquisition or by which any of their properties or assets are bound or (d) result in the creation of any Lien (other than Permitted Liens) upon any of the properties or assets of Acquisition, except in the case of each of clauses (b), (c) and (d) above, for such violations, conflicts, defaults, terminations, accelerations or Liens which would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its respective covenants and obligations hereunder.

Section 4.4 Required Governmental Approvals. No Consent of any Governmental Authority is required on the part of Acquisition or any of its Affiliates in connection with the execution and delivery by Acquisition of this Agreement, the performance by Acquisition or any of its affiliates of their respective covenants and obligations hereunder and the consummation by Acquisition of the transactions contemplated hereby, except (a) the filing and registration of the Articles of Merger with the Secretary of State and such filings with Governmental Authorities to satisfy the applicable laws of states in which Acquisition is qualified to do business, (b) such filings and approvals as may be required by any United States federal or state securities laws, including compliance with any applicable requirements of the Exchange Act, and the filing of the Proxy Statement and the Schedule 13E-3, and (c) such other Consents, the failure of which to obtain would not, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder.

Section 4.5 Available Funds. Acquisition has or will have available to it, as of the Effective Time, all funds necessary for the payment to the Paying Agent of the aggregate amount of the Exchange Fund and any other amounts required to be paid in connection with the consummation of the Merger and the other transactions contemplated by this Agreement and to pay all related fees and expenses of Acquisition.

Section 4.6 Litigation. As of the date hereof, there is no Legal Proceeding pending or, to the Knowledge of Acquisition or any of its Affiliates, threatened in writing against or affecting Acquisition or any of their Affiliates or any of their respective properties that would, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder. Acquisition is not subject to any outstanding Order that would, individually or in the aggregate, prevent or materially delay the consummation by Acquisition of the transactions contemplated hereby or the performance by Acquisition of its covenants and obligations hereunder.

Section 4.7 Ownership of Company Share Capital. As of the date hereof, other than the Principal Shares, neither Acquisition nor any of its Affiliates owns (beneficially (as such term is used in Rule 13d-3 promulgated under the Exchange Act), of record or otherwise) any Company Shares or Subsidiary Securities (or any other economic interest through derivative securities or otherwise in the Company or any Subsidiary of the Company) except pursuant to this Agreement.

Section 4.8 Brokers. No agent, broker, finder or investment banker is entitled to any brokerage, finder or other fee or commission payable by the Company in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Acquisition.

Section 4.9 Operations of Acquisition. Acquisition has been formed solely for the purpose of engaging in the transactions contemplated hereby and, prior to the Effective Time, Acquisition will not have engaged in any other business activities or have incurred any liabilities or obligations other than as contemplated by this Agreement.

Section 4.10 Capitalization of Acquisition. The authorized share capital of Acquisition consists of 50,000 shares, par value $0.001 per share, 19 of which are validly issued and outstanding. Mr. Minhua Chen and Mrs. Yanling Fan own 100% of the issued and outstanding share capital of Acquisition.

Section 4.11 Solvency. Acquisition is not entering into the transactions contemplated hereby with the intent to hinder, delay or defraud any present or future creditors. Assuming that the Company is solvent immediately prior to the Effective Time without giving effect to the transactions contemplated by this Agreement, then as of the Effective Time and immediately after giving effect to all of the transactions contemplated by this Agreement, including the Merger and the payment of the aggregate Per Share Merger Consideration and payment of all related fees and expenses of Acquisition, the Company and their respective Subsidiaries in connection therewith, (a) the amount of the "fair saleable value" of the assets of each of the Surviving Company and its Subsidiaries will exceed (i) the value of all liabilities of the Surviving Company and such Subsidiaries, including contingent and other liabilities, and (ii) the amount that will be required to pay the probable liabilities of the Surviving Company and such Subsidiaries on their existing debts (including contingent liabilities) as such debts become absolute and matured, (b) neither the Surviving Company nor any of its Subsidiaries will have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged, and (c) each of the Surviving Company and its Subsidiaries will be able to pay its liabilities, including contingent and other liabilities, as they mature. For purposes of the foregoing, "not have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged" and "able to pay its liabilities, including contingent and other liabilities, as they mature" means that such Person will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due. For purposes of this representation, the Parties assume that the Company immediately prior to the Effective Time will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due without giving effect to transactions contemplated by this Agreement.

Section 4.12 No Other Acquisition Representations or Warranties. Except for the representations and warranties set forth in Article IV, the Company hereby acknowledges and agrees that (a) neither Acquisition nor any of its Affiliates, nor any of their respective Representatives, has made or is making any other express or implied representation or warranty with respect to Acquisition or its business or operations, including with respect to any information provided or made available to the Company or any of its Representatives, and (b) neither Acquisition nor any of its Affiliates, nor any of their respective Representatives, will have or be subject to any liability or indemnification obligation or other obligation of any kind or nature to the Company or any of its Representatives, resulting from the delivery, dissemination or any other distribution to the Company or any of its Representatives, or the use by the Company or any of its Representatives, of any such information provided or made available to any of them by Acquisition or any of its Representatives, including any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material provided or made available to the Company or any of its Representatives, in "data rooms," confidential information memoranda or management presentations in anticipation or contemplation of the Merger or any other transactions contemplated by this Agreement.

ARTICLE V
COVENANTS OF THE COMPANY

Section 5.1 Interim Conduct of Business.

(a) Except as (i) contemplated, required or permitted by this Agreement, (ii) required by applicable Law, (iii) set forth in Section 5.1(a) of the Company Disclosure Letter, or (iv) approved by Acquisition (which approval will not be unreasonably withheld, conditioned or delayed), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company and each of its Subsidiaries shall (A) carry on its business in the ordinary course in substantially the same manner as heretofore conducted in all material respects, and (B) use its reasonable best efforts, consistent with past practices, to preserve substantially intact its business organization and preserve the current relationships of the Company and each of its Subsidiaries with material customers, suppliers and other Persons with whom the Company or any of its Subsidiaries has significant business relations as is reasonably necessary.

(b) Except as (i) contemplated, required or permitted by this Agreement, (ii) required by applicable Law, (iii) set forth in Section 5.1(b) of the Company Disclosure Letter, or (iv) approved by Acquisition (which approval will not be unreasonably withheld, conditioned or delayed), at all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company shall not do any of the following and shall not permit any of its Subsidiaries to do any of the following (it being understood and hereby agreed that if any action is expressly permitted by any of the following subsections, such action shall be expressly permitted under Section 5.1(a)):

(i) amend its articles of incorporation, bylaws or comparable organizational documents;

(ii) issue, sell, deliver or agree or commit to issue, sell or deliver (whether through the issuance or granting of options, warrants, commitments, subscriptions, rights to purchase or otherwise) any Company Securities or any Subsidiary Securities, except for (A) the issuance and sale of Company Shares, (B) grants to employees or directors of Company Options issued in the ordinary course of business consistent with past practice, and with a per share exercise price that is no less than the then-current market price of a Company Share;

(iii) directly or indirectly acquire, repurchase or redeem any Company Securities;

(iv) (A) split, combine, subdivide or reclassify any Company Shares, (B) declare, set aside or pay any dividend or other distribution (whether in cash, shares or property or any combination thereof) in respect of any Company Shares, or make any other actual, constructive or deemed distribution in respect of Company Shares, except for cash dividends made by any direct or indirect Subsidiary of the Company to the Company or one of its Subsidiaries or (C) enter into any voting agreement with respect to its share capital that is inconsistent with the transaction contemplated hereby;

(v) propose or adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company or any of its Subsidiaries, except for (A) the transactions contemplated by this Agreement or (B) the dissolution or reorganization of a wholly owned Subsidiary of the Company in the ordinary course of business consistent with past practice;

(vi) (A) incur or assume any long-term or short-term debt for borrowed monies or issue any debt securities, except for (1) debt incurred in the ordinary course of business under letters of credit, lines of credit or other credit facilities or arrangements in effect on the date hereof or issuances or repayment of commercial paper in the ordinary course of business consistent with past practice, and (2) loans or advances between the Company and any direct or indirect Subsidiaries, or between any direct or indirect Subsidiaries, (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person in excess of $50,000 (or an equivalent amount in RMB) individually or $100,000 (or an equivalent amount in RMB) in the aggregate, except with respect to obligations of direct or indirect Subsidiaries of the Company, (C) make any loans, advances or capital contributions to or investments in any other Person (other than the Company or any direct or indirect Subsidiaries), except for payments or advances made in the ordinary course of business of the Company or any of its direct or indirect Subsidiaries consistent with their respective past practice, or (D) mortgage or pledge any of its or its Subsidiaries' assets, tangible or intangible, or create or suffer to exist any Lien thereupon (other than Permitted Liens);

(vii) except as may be required by applicable Law or the terms of any employee benefit plan as in effect on the date hereof, (A) enter into, adopt, amend (including acceleration of vesting), modify or terminate any bonus, profit sharing, incentive, compensation, severance, retention, termination, option, appreciation right, performance unit, share equivalent, share purchase agreement, pension, retirement, deferred compensation, employment, severance or other employee benefit agreement, trust, plan, fund or other arrangement for the compensation, benefit or welfare of any officer or employee in any manner, except in any such case (1) in connection with the hiring of new officers or employees in the ordinary course of business consistent with past practice, and (2) in connection with the promotion of officers or employees in the ordinary course of business consistent with past practice, or (B) increase the compensation payable or to become payable to any officer or employee, pay or agree to pay any special bonus or special remuneration to any officer or employee, or pay or agree to pay any benefit not required by any plan or arrangement as in effect as of the date hereof, except in the ordinary course of business consistent with past practice;

(viii) except as may be required as a result of a change in applicable Law or in GAAP, make any material change in any of the accounting principles or practices used by it;

(ix) sell, transfer, lease, license, assign or otherwise dispose of (including, by merger, consolidation, or sale of stock or assets) any entity, business, tangible assets or tangible properties of the Company or any of its Subsidiaries having a current value in excess of $100,000 (or an equivalent amount in RMB) in the aggregate (other than the sale of inventory in the ordinary course of business);

(x) sell, transfer, license, assign or otherwise dispose of (including, by merger, consolidation or sale of stock or assets), abandon, permit to lapse or fail to maintain or enforce any material intellectual property owned by the Company or any of its Subsidiaries (except the granting of nonexclusive licenses in the ordinary course of business), or disclose to any Person any confidential information (except pursuant to confidentiality agreements);

(xi) (A) make or change any material Tax election, (B) settle or compromise any material income Tax liability, or (C) consent to any extension or waiver of any limitation period with respect to any claim or assessment for material Taxes, in each case to the extent such election, settlement, compromise, extension, waiver or other action would have the effect of materially increasing the Tax liability of the Company or any of its Subsidiaries for any period ending after the Closing Date or materially decreasing any Tax attribute of the Company or any of its Subsidiaries existing on the Closing Date;

(xii) other than in the ordinary course of business consistent with past practice, (A) acquire (by merger, consolidation or acquisition of stock or assets) any other Person or any material equity interest therein with a value in excess of $100,000 (or an equivalent amount in RMB) individually or $500,000 (or an equivalent amount in RMB) in the aggregate or (B) dispose of any properties or assets of the Company or its Subsidiaries, which are material to the Company and its Subsidiaries, taken as a whole;

(xiii) enter into any new line of business outside of its existing business segments;

(xiv) adopt, propose, effect or implement any "shareholder rights plan," "poison pill" or similar arrangement; or

(xv) enter into a Contract, or otherwise resolve or agree in any legally binding manner, to take any of the actions prohibited by this Section 5.1(b).

(c) Notwithstanding the foregoing, nothing in this Agreement is intended to give Acquisition, directly or indirectly, the right to control or direct the business or operations of the Company or its Subsidiaries at any time prior to the Effective Time. Prior to the Effective Time, the Company and its Subsidiaries shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over their own business and operations.

Section 5.2 No Solicitation.

(a) Subject to Section 5.2(b), from the date hereof until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company and its Affiliates shall not, nor shall they authorize or knowingly permit any of their respective Representatives to, directly or indirectly, (i) solicit, initiate or induce the making, submission or announcement of, or knowingly encourage, facilitate or assist, an Acquisition Proposal, (ii) furnish to any Person (other than Acquisition or any designees of Acquisition) any non-public information relating to the Company or any of its Subsidiaries, or afford to any Person (other than Acquisition or any designees of Acquisition or Acquisition) access to the business, properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, in any such case with the intent to induce the making, submission or announcement of, or the intent to encourage, facilitate or assist, an Acquisition Proposal or any inquiries or the making of any proposal that would reasonably be expected to lead to an Acquisition Proposal, (iii) participate or engage in discussions or negotiations with any Person with respect to an Acquisition Proposal, (iv) approve, endorse or recommend an Acquisition Proposal, or (v) enter into any Contract contemplating or otherwise relating to an Acquisition Transaction. Promptly following the date of this Agreement, the Company and its Affiliate shall instruct their Representatives that are engaged in ongoing discussions and negotiations with any Persons (other than Acquisition or any of its Representatives) with respect to any possible Acquisition Proposal to cease any such discussions.

(b) Notwithstanding anything to the contrary set forth in Section 5.2(a), the Company Board (acting through the Special Committee), may, directly or indirectly through the Company's Representatives, (i) contact any Person that has made a *bona fide*, written Acquisition Proposal to clarify and understand the terms and conditions thereof in order to assess whether such Acquisition Proposal is reasonably expected to lead to a Superior Proposal, (ii) participate or engage in discussions or negotiations with any Person that has made a *bona fide*, written Acquisition Proposal and that the Company Board (acting through the Special Committee) determines in good faith, after consultation with its financial advisor and outside legal counsel, either constitutes or is reasonably expected to lead to a Superior Proposal, and/or (iii) furnish to any Person that has made a *bona fide*, written Acquisition Proposal that the Company Board (acting through the Special Committee) determines in good faith, after consultation with its financial advisor and outside legal counsel, either constitutes or is reasonably expected to lead to a Superior Proposal any non-public information relating to the Company or any of its Subsidiaries, and/or afford to any such Person access to the business, properties, assets, books, records or other non-public information, or to any personnel, of the Company or any of its Subsidiaries, in each case under this clause (iii) pursuant to a confidentiality agreement; provided that in the case of any action taken pursuant to the preceding clauses (ii) or (iii), the Company Board (acting through the Special Committee) determines in good faith (after consultation with outside legal counsel) that the failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law, provided further that the Company shall (I) provide written notice to Acquisition of its intent to furnish information or enter into discussions with such Person at least one Business Day prior to taking any such action, (II) promptly following its execution, deliver to Acquisition a copy of the confidentiality agreement executed by the Company and such Person, and (III) promptly make available to Acquisition any material information concerning the Company and its Subsidiaries that is provided to any such Person and that was not previously made available to Acquisition or its Representatives.

Section 5.3 Company Board Recommendation.

(a) Subject to the terms of Section 5.3(b) and Section 5.3(c), the Company Board shall recommend that the holders of Company Shares authorize this Agreement (the "**Company Board Recommendation**").

(b) Neither the Company Board nor any committee thereof (including the Special Committee) shall (i) (A) withhold, withdraw, amend or modify in a manner adverse to Acquisition in any material respect, or publicly propose to withhold, withdraw, amend or modify in a manner adverse to Acquisition in any material respect, the Company Board Recommendation or (B) adopt, approve or recommend, or propose publicly to adopt, approve or recommend, any Superior Proposal (any action in this clause (i) being referred to as a "**Company Board Recommendation Change**"); or (ii) adopt, approve or recommend, or allow the Company or any of its Subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement or other similar agreement (each, an "**Alternative Acquisition Agreement**") constituting or related to, or that would reasonably be expected to result in, any Acquisition Proposal (other than a confidentiality Agreement referred to in Section 5.2); provided that a "stop, look and listen" communication by the Company Board or the Special Committee, to the Company Shareholders pursuant to Rule 14d-9(f) of the Exchange Act, or any substantially similar communication, shall not be deemed to be a Company Board Recommendation Change.

Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, at any time prior to the Effective Time, (x) the Company Board (acting through the Special Committee, if in existence) may effect a Company Board Recommendation Change if the Company Board (acting through the Special Committee) determines in good faith (after consultation with outside legal counsel) that the failure to effect a Company Board Recommendation Change would reasonably be expected to be inconsistent with its fiduciary duties to the Company Shareholders under applicable Law and (y) if the Company Board determines in good faith (after consultation with the Company's outside financial and legal advisors) that an Acquisition Proposal constitutes a Superior Proposal, then the Company may enter into an Alternative Acquisition Agreement with respect to such Superior Proposal or terminate this Agreement in accordance with Section 9.1(d).

(c) The Company shall not be entitled to effect a Company Board Recommendation Change or terminate this Agreement as permitted under Section 9.1(d) unless the Company has provided written notice (a "**Recommendation Change Notice**") at least fifteen (15) Business Days in advance to Acquisition advising Acquisition that the Company Board intends to make a Company Board Recommendation Change or enter into an Alternative Acquisition Agreement with respect to an Acquisition Proposal that either constitutes or could reasonably be expected to constitute a Superior Proposal, as applicable, and specifying the reasons therefor, including the terms and conditions of such Acquisition Proposal that is the basis of the proposed action by the Company Board (including the identity of the Person making the Acquisition Proposal and any financing materials related thereto, if any) and following the end of the fifteen (15) Business Day period, the Company Board and the Special Committee shall have determined in good faith, taking into account any changes to this Agreement proposed in writing by Acquisition in response to the notice of Superior Proposal, that the Acquisition Proposal giving rise to the notice of Superior Proposal continues to constitute a Superior Proposal. Notwithstanding anything herein to the contrary, should Acquisition respond to the Recommendation Change Notice within such fifteen (15) Business Day period with a proposal equivalent to the proposed Superior Proposal, then the revised proposal from Acquisition shall be recommended by the Company Board as the Company Board Recommendation. Any material amendment to the financial terms or any other material amendment of any such Superior Proposal shall require a new notice of Superior Proposal and the Company shall be required to comply again with the requirements of this Section 5.3(c).

(d) Nothing in this Agreement shall prohibit the Company Board or the Special Committee, from (i) complying with its disclosure obligations under applicable Law with regard to an Acquisition Proposal, including taking and disclosing to the Company Shareholders a position contemplated by Rule 14e-2(a) under the Exchange Act or complying with the provisions of Rule 14d-9 promulgated under the Exchange Act (or any similar communication to the Company Shareholders), and (ii) making any disclosure to the Company Shareholders that the Company Board or the Special Committee, if in existence, determines in good faith (after consultation with its outside legal counsel) that the failure to make such disclosure would reasonably be expected to be inconsistent with its fiduciary duties to the Company Shareholders under applicable Law.

Section 5.4 Access. At all times during the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article IX and the Effective Time, the Company shall afford Acquisition and its Representatives reasonable access during normal business hours, upon reasonable notice, to the properties, books and records and personnel of the Company; provided that the Company may restrict or otherwise prohibit access to any documents or information to the extent that (a) any applicable Law requires the Company to restrict or otherwise prohibit access to such documents or information, (b) such documents or information are subject to any attorney-client privilege, work product doctrine or other privilege applicable to such documents or information, or (c) access to a Contract to which the Company or any of its Subsidiaries is a party or otherwise bound would violate or cause a default under, or give a third party the right to terminate or accelerate the rights under, such Contract; provided further that no information or knowledge obtained by Acquisition in any investigation conducted pursuant to the access contemplated by this Section 5.4 shall affect or be deemed to modify any representation or warranty of the Company set forth in this Agreement or otherwise affect the rights and remedies available to Acquisition hereunder. Any investigation conducted pursuant to the access contemplated by this Section 5.4 shall be conducted in a manner that does not unreasonably interfere with the conduct of the business of the Company and its Subsidiaries or create a risk of damage or destruction to any property or assets of the Company or any of its Subsidiaries. Any access to the Company's properties shall be subject to the Company's reasonable security measures and insurance requirements and shall not include the right to perform invasive testing.

Section 5.5 Certain Litigation. Each party hereto shall promptly advise the other parties hereto of any litigation commenced after the date hereof against such party or any of its directors (in their capacity as such) by any Company Shareholders (on their own behalf or on behalf of the Company) relating to this Agreement or the transactions contemplated hereby, and shall keep the other parties hereto reasonably informed regarding any such litigation. Each party hereto shall give the other parties hereto the opportunity to consult with such party regarding the defense or settlement of any such shareholder litigation and shall consider such other parties' views with respect to such shareholder litigation.

ARTICLE VI
COVENANTS OF ACQUISITION

Section 6.1 Obligations of Acquisition. Acquisition and its Affiliates shall take all action necessary to perform its obligations under this Agreement and to consummate the transactions contemplated hereby upon the terms and subject to the conditions set forth in this Agreement.

ARTICLE VII
ADDITIONAL COVENANTS OF ALL PARTIES

Section 7.1 Reasonable Best Efforts to Complete. Upon the terms and subject to the conditions set forth in this Agreement, each of Acquisition and the Company shall use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party or parties hereto in doing, all things reasonably necessary, proper or advisable under applicable Law or otherwise to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including using reasonable best efforts to: (a) cause the conditions set forth in Article VIII to be satisfied; and (b) obtain all necessary actions or non-actions, waivers, consents, approvals, orders and authorizations from Governmental Authorities and make all necessary registrations, declarations and filings with Governmental Authorities, that are necessary to consummate the Merger or the transactions contemplated hereby. In addition to the foregoing, neither Acquisition, on the one hand, nor the Company, on the other hand, shall take any action that, or fail to take any action if such failure, is intended to, or has (or would reasonably be expected to have) the effect of, preventing, impairing, delaying or otherwise adversely affecting the consummation of the Merger or the ability of such party to fully perform its obligations under this Agreement. Notwithstanding anything to the contrary herein, the Company shall not be required prior to the Effective Time to pay any consent or other similar fee, "profit sharing" or other similar payment or other consideration (including increased rent or other similar payments or any amendments, supplements or other modifications to (or waivers of) the existing terms of any Contract), or the provision of additional security (including a guaranty) to obtain the consent, waiver or approval of any Person under any Contract.

Section 7.2 Regulatory Filings.

(a) Acquisition, on the one hand, and the Company, on the other hand, shall promptly inform the other of any communication from any Governmental Authority regarding any of the transactions contemplated by this Agreement in connection with any filings or investigations with, by or before any Governmental Authority relating to this Agreement or the transactions contemplated hereby, including any proceedings initiated by a private party. In connection with and without limiting the foregoing, to the extent reasonably practicable and unless prohibited by applicable Law or by the applicable Governmental Authority, the parties hereto agree to (i) give each other reasonable advance notice of all meetings with any Governmental Authority relating to the Merger, (ii) give each other an opportunity to participate in each of such meetings, (iii) keep the other party reasonably apprised with respect to any oral communications with any Governmental Authority regarding the Merger, (iv) cooperate in the filing of any analyses, presentations, memoranda, briefs, arguments, opinions or other written communications explaining or defending the Merger, articulating any regulatory or competitive argument and/or responding to requests or objections made by any Governmental Authority, (v) provide each other with a reasonable advance opportunity to review and comment upon, and consider in good faith the views of the other with respect to, all written communications (including any analyses, presentations, memoranda, briefs, arguments and opinions) with a Governmental Authority regarding the Merger, (vi) provide each other (or counsel of each party, as appropriate) with copies of all written communications to or from any Governmental Authority relating to the Merger, and (vii) cooperate and provide each other with a reasonable opportunity to participate in, and consider in good faith the views of the other with respect to, all material deliberations with respect to all efforts to satisfy the conditions set forth in Section 8.1(b). Any such disclosures, rights to participate or provisions of information by one party to the other may be made on a counsel-only basis to the extent required under applicable Law or as appropriate to protect confidential information.

(b) Each of Acquisition and the Company shall cooperate with one another in good faith to (i) promptly determine whether any filings not expressly contemplated by this Agreement are required to be or should be made, and whether any other consents, approvals, permits or authorizations not expressly contemplated by this Agreement are required to be or should be obtained, from any Governmental Authority under any other applicable Law in connection with the transactions contemplated hereby, and (ii) promptly make any filings, furnish information required in connection therewith and seek to obtain timely any such consents, permits, authorizations, approvals or waivers that the parties determine are required to be or should be made or obtained in connection with the transactions contemplated hereby.

Section 7.3 Company Shareholders Meeting.

(a) As promptly as practicable following the date hereof, the Company, in cooperation with and subject to the approval of the Special Committee, shall, in accordance with applicable Law (in the case of each of clauses (i) to (iv), unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement): (i) prepare and cause to be filed with the SEC as an exhibit to the Schedule 13E-3 a preliminary proxy statement (the "**Preliminary Proxy Statement**") relating to this Agreement and the transactions contemplated by this Agreement; (ii) after consultation with Acquisition, respond as promptly as reasonably practicable to any comments made by the SEC with respect to the Preliminary Proxy Statement (including filing as promptly as reasonably practicable any amendments or supplements thereto necessary to be filed in response to any such comments or as required by Law); (iii) use reasonable best efforts to have the SEC confirm that it has no further comments thereto; and (iv) cause a definitive proxy statement, letter to shareholders, notice of meeting and form of proxy accompanying the proxy statement that will be provided to the Company Shareholders in connection with the solicitation of proxies for use at the Company Shareholders Meeting (collectively, as amended or supplemented, the "**Proxy Statement**"), to be mailed to the Company Shareholders at the earliest practicable date after the date that the SEC confirms it has no further comments. Acquisition shall as promptly as practicable furnish all information as the Company may reasonably request and otherwise cooperate with and assist the Company, at the Company's reasonable request, in connection with the preparation of the Preliminary Proxy Statement, the Proxy Statement and the other actions to be taken by the Company under this Section 7.3(a).

(b) Unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company, in cooperation with and subject to the approval of the Special Committee, and Acquisition shall cooperate to: (i) concurrently with the preparation of the Preliminary Proxy Statement and the Proxy Statement (including any amendments or supplements thereto), jointly prepare and file with the SEC the Schedule 13E-3 relating to the transactions contemplated hereby and furnish to each other all information concerning such party as may be reasonably requested by the other party in connection with the preparation of the Schedule 13E-3; (ii) respond as promptly as reasonably practicable to any comments received from the SEC with respect to such filings and consult with each other prior to providing such response; (iii) as promptly as reasonably practicable after consulting with each other, prepare and file any amendments or supplements necessary to be filed in response to any SEC comments or as required by Law; (iv) have cleared by the SEC the Schedule 13E-3; and (v) to the extent required by applicable Law, as promptly as reasonably practicable prepare, file and distribute to the Company Shareholders any supplement or amendment to the Schedule 13E-3 if any event shall occur which requires such action at any time prior to the Company Shareholders Meeting.

(c) Unless the Company Board (acting through the Special Committee) shall have effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company shall, in accordance with applicable Law, notify Acquisition promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement or for additional information and will supply Acquisition with copies of all correspondence between the Company or any of its Representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement. The Company shall give Acquisition a reasonable opportunity to comment on any correspondence with the SEC or its staff or any proposed material to be included in the Schedule 13E-3, the Preliminary Proxy Statement or the Proxy Statement prior to transmission to the SEC or its staff and shall not, unless required by Law, transmit any such material to which Acquisition reasonably objects. If the Company discovers at any time prior to the Company Shareholders Meeting any information that, pursuant to the Exchange Act, is required to be set forth in an amendment or supplement to the Proxy Statement, then the Company, in cooperation with and subject to the approval of the Special Committee, shall promptly transmit such amendment or supplement to the Company Shareholders.

(d) Unless the Company Board (acting through the Special Committee) has effected a Company Board Recommendation Change or entered into an Alternative Acquisition Agreement, the Company, in cooperation with and subject to the approval of the Special Committee, shall (i) in accordance with applicable Law, establish a record date for and duly call a meeting of the Company Shareholders (the "**Company Shareholders Meeting**") as promptly as reasonably practicable following the date hereof for the purposes of considering and, if thought fit by the Company Shareholders, passing resolutions to authorize and approve this Agreement and the Merger, (ii) use reasonable best efforts to solicit the authorization and approval of this Agreement and the Merger by the Company Shareholders, and (iii) include in the Proxy Statement the Company Board Recommendation. Notwithstanding the foregoing, the Company may adjourn or postpone the Company Shareholders Meeting as and to the extent: (1) required by applicable Law; (2) if as of the time for which the Company Shareholders Meeting is originally scheduled (as set forth in the Proxy Statement) there are insufficient Company Shares represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of the Company Shareholders Meeting; or (3) if in the good faith judgment of the Company Board, such adjournment or postponement is consistent with its fiduciary duties under applicable Law.

(e) Notwithstanding the foregoing or anything else herein to the contrary, and subject to compliance with the terms of Section 5.3, in connection with any disclosure regarding a Company Board Recommendation Change relating to a Superior Proposal or an Acquisition Proposal, the Company shall not be required to provide Acquisition the opportunity to review or comment on (or include comments proposed by Acquisition in) or permit Acquisition to participate in any discussions with the SEC regarding the Proxy Statement, or any amendment or supplement thereto, or any comments thereon or any other filing by the Company with the SEC, with respect to such disclosure.

Section 7.4 Anti-Takeover Laws. In the event that any anti-takeover Law is or becomes applicable to this Agreement or any of the transactions contemplated by this Agreement, the Company and Acquisition shall use their respective reasonable best efforts to ensure that the transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms and subject to the conditions set forth in this Agreement and otherwise to minimize the effect of such Law on this Agreement and the transactions contemplated hereby.

Section 7.5 Public Statements and Disclosure. None of the Company, on the one hand, or Acquisition, on the other hand, shall issue any public release or make any public announcement concerning this Agreement or the transactions contemplated by this Agreement without the prior written consent of the other (which consent shall not be unreasonably withheld, conditioned or delayed), except as such release or announcement may be required by applicable Law or the rules or regulations of any applicable United States securities exchange or regulatory or Governmental Authority to which the relevant party is subject or submits, wherever situated, in which case the party required to make the release or announcement shall use its reasonable best efforts to allow the other party or parties hereto 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, as well as the timing of any such release or announcement, shall be at the final discretion of the disclosing party); provided that the restrictions set forth in this Section 7.5 shall not apply to any release or announcement made or proposed to be made by the Company pursuant to Section 5.3 or following a Company Board Recommendation Change.

Section 7.6 Actions Taken at Direction of Acquisition/Principal Shareholders. Notwithstanding any other provision of this Agreement to the contrary, the Company shall not be deemed to be in breach of any representation, warranty, covenant or agreement hereunder, including, without limitation, Article VI and Article VII hereof, if the alleged breach is the proximate result of action or inaction taken by the Company or any of its Subsidiaries at the direction of Acquisition, any Principal Shareholder or any shareholder, officer or director of Acquisition or any Principal Shareholder without the approval or direction of the Company Board or the Special Committee.

Section 7.7 Directors' and Officers' Indemnification.

(a) The Surviving Company and its Affiliates shall honor and fulfill in all respects the obligations of the Company and its Subsidiaries under any and all indemnification agreements between the Company or any of its Subsidiaries and any of their respective current or former directors and officers and any person who becomes a director or officer of the Company or any of its Subsidiaries prior to the Effective Time (the "**Indemnified Persons**"). In addition, during the period commencing at the Effective Time and ending on the sixth anniversary of the Effective Time, the Surviving Company and its Affiliates shall cause the articles of incorporation (and other similar organizational documents) of the Surviving Company and its Subsidiaries to contain provisions with respect to indemnification, exculpation and the advancement of expenses that are at least as favorable to the Indemnified Person as the indemnification, exculpation and advancement of expenses provisions contained in the articles of incorporation (or other similar organizational documents) of the Company and its Subsidiaries as of the date hereof, and during such six-year period, such provisions shall not be repealed, amended or otherwise modified in any manner except as required by applicable Law.

(b) Without limiting the generality of the provisions of Section 7.7, during the period commencing at the Effective Time and ending on the second anniversary of the Effective Time, to the fullest extent permitted by applicable Law, the Surviving Company and its Affiliates shall indemnify and hold harmless each Indemnified Person from and against any costs, fees and expenses (including reasonable attorneys' fees and investigation expenses), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any claim, proceeding, investigation or inquiry, whether civil, criminal, administrative or investigative, to the extent such claim, proceeding, investigation or inquiry arises directly or indirectly out of or pertains directly or indirectly to (i) any action or omission or alleged action or omission in such Indemnified Person's capacity as a director, officer, employee or agent of the Company or any of its Subsidiaries or other Affiliates (regardless of whether such action or omission, or alleged action or omission, occurred prior to, at or after the Effective Time), or (ii) any of the transactions contemplated by this Agreement; provided that if, at any time prior to the sixth anniversary of the Effective Time, any Indemnified Person delivers to Acquisition and its Affiliates a written notice asserting a claim for indemnification under this Section 7.7 (b), then the claim asserted in such notice shall survive the sixth anniversary of the Effective Time until such time as such claim is fully and finally resolved. In addition, during the period commencing at the Effective Time and ending on the second anniversary of the Effective Time, to the fullest extent permitted by applicable Law, the Surviving Company and its Subsidiaries shall advance, prior to the final disposition of any claim, proceeding, investigation or inquiry for which indemnification may be sought under this Agreement, promptly following request by an Indemnified Person therefor, all costs, fees and expenses (including reasonable attorneys' fees and investigation expenses) incurred by such Indemnified Person in connection with any such claim, proceeding, investigation or inquiry upon receipt of an undertaking by such Indemnified Person to repay such advances if it is ultimately decided in a final, non-appealable judgment by a court of competent jurisdiction that such Indemnified Person is not entitled to indemnification. In the event of any such claim, proceeding, investigation or inquiry, (A) the Surviving Company and its Affiliates shall have the right to control the defense thereof after the Effective Time (it being understood that, by electing to control the defense thereof, the Surviving Company and its Affiliates will be deemed to have waived any right to object to the Indemnified Person's entitlement to indemnification hereunder with respect thereto), (B) each Indemnified Person shall be entitled to retain his or her own counsel, whether or not the Surviving Company and its Affiliates shall elect to control the defense of any such claim, proceeding, investigation or inquiry, (C) the Surviving Company and its Affiliates shall pay all reasonable fees and expenses of any counsel retained by an Indemnified Person, promptly after statements therefor are received, whether or not the Surviving Company and its Affiliates shall elect to control the defense of any such claim, proceeding, investigation or inquiry, and (D) no Indemnified Person shall be liable for any settlement effected without his or her prior express written consent. Notwithstanding anything to the contrary set forth in this Section 7.7(b) or elsewhere in this Agreement, the Surviving Company and its Affiliates may settle or otherwise compromise or consent to the entry of any judgment or otherwise seek termination with respect to any claim, proceeding, investigation or inquiry for which indemnification may be sought by an Indemnified Person under this Agreement provided such settlement, compromise, consent or termination includes an unconditional release of all Indemnified Persons from all liability arising out of such claim, proceeding, investigation or inquiry.

(c) If the Surviving Company and its Affiliates or any of its successors or assigns shall (i) consolidate with or merge into any other Person and shall not be the continuing or surviving company or entity of such consolidation or merger, or (ii) transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Surviving Company and its Affiliates shall assume all of the obligations of the Surviving Company and its Affiliates set forth in this Section 7.7.

(d) The obligations set forth in this Section 7.7 shall not be terminated, amended or otherwise modified in any manner that adversely affects any Indemnified Person without the prior written consent of such affected Indemnified Person (and their heirs and representatives). Each of the Indemnified Persons (and their heirs and representatives) are intended to be third party beneficiaries of this Section 7.7, with full rights of enforcement as if a party thereto. The rights of the Indemnified Persons (and their heirs and representatives)) under this Section 7.7 shall be in addition to, and not in substitution for, any other rights that such persons may have under the articles of incorporation, bylaws or other equivalent organizational documents, any and all indemnification agreements of or entered into by the Company or any of its Subsidiaries, or applicable Law (whether at law or in equity).

(e) Nothing in this Agreement is intended to, shall be construed to or shall release, waive or impair any rights to directors' and officers' insurance claims under any policy that is or has been in existence with respect to the Company or any of its Subsidiaries for any of their respective directors, officers or other employees, it being understood and agreed that the indemnification provided for in this Section 7.7 is not prior to or in substitution for any such claims under such policies.

ARTICLE VIII
CONDITIONS TO THE MERGER

Section 8.1 Conditions to the Obligations of Each Party. The respective obligations of Acquisition and the Company to consummate the Merger shall be subject to the satisfaction or waiver (except with respect to the condition set forth in Section 8.1 (a), which cannot be waived) by mutual written agreement of Acquisition and the Company (subject to the approval of the Special Committee), prior to the Effective Time, of each of the following conditions:

(a) Requisite Shareholder Approval. The Company shall have received the Requisite Shareholder Approval.

(b) No Legal Prohibition. No Governmental Authority of competent jurisdiction shall have (i) enacted, issued or promulgated any Law that is in effect and has the effect of making the Merger illegal in any jurisdiction in which the Company has material business or operations or which has the effect of prohibiting or otherwise preventing the consummation of the Merger in any jurisdiction in which the Company has material business or operations, or (ii) issued or granted any Order that has the effect of making the Merger illegal in any jurisdiction in which the Company has material business or operations or which has the effect of prohibiting or otherwise preventing the consummation of the Merger in any jurisdiction in which the Company has material business or operations.

Section 8.2 Conditions to the Obligations of Acquisition. The obligations of Acquisition to consummate the Merger shall be subject to the satisfaction or waiver prior to the Effective Time of each of the following conditions, any of which may be waived exclusively by Acquisition:

(a) Representations and Warranties. The representations and warranties of the Company set forth in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of such date (except for those representations and warranties that address matters only as of a particular date, which representations and warranties shall have been true and correct as of such particular date), except (i) for any failure to be so true and correct which has not had a Company Material Adverse Effect and (ii) for changes contemplated by this Agreement; provided that, solely for purposes of determining the accuracy of the representations and warranties of the Company set forth in this Agreement for purposes of this Section 8.2(a), all "materiality" and "Company Material Adverse Effect" qualifications set forth in such representations and warranties shall be disregarded.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects the material obligations that are to be performed by it under this Agreement at or prior to the Effective Time.

(c) No Company Material Adverse Effect. Since the date of this Agreement, there shall not have occurred and be continuing a Company Material Adverse Effect.

(d) Officer's Certificate. Acquisition shall have received a certificate of the Company, validly executed for and on behalf of the Company and in its name by a duly authorized officer thereof, certifying that the conditions set forth in Section 8.2 (a) to Section 8.2(c) have been satisfied.

Section 8.3 Conditions to the Obligations of the Company. The obligations of the Company to consummate the Merger shall be subject to the satisfaction or waiver prior to the Effective Time of each of the following conditions, any of which may be waived exclusively by the Company, subject to the approval of the Special Committee:

(a) Representations and Warranties. The representations and warranties of Acquisition set forth in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of such date (except for those representations and warranties that address matters only as of a particular date, which representations and warranties shall have been true and correct as of such particular date), except (i) for any failure to be so true and correct that would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the ability of Acquisition to fully perform their respective covenants and obligations under this Agreement and (ii) for changes contemplated by this Agreement.

(b) Performance of Obligations of Acquisition. Acquisition shall have performed in all material respects the material obligations that are to be performed by Acquisition under this Agreement at or prior to the Effective Time.

(c) Officer's Certificate. The Company shall have received a certificate of Acquisition, validly executed for and on behalf of Acquisition and in by a duly authorized officer thereof, certifying that the conditions set forth in Section 8.3(a) and Section 8.3(b) have been satisfied.

ARTICLE IX
TERMINATION, AMENDMENT AND WAIVER

Section 9.1 Termination. This Agreement may be validly terminated only as follows (it being understood and hereby agreed that this Agreement may not be terminated for any other reason or on any other basis):

(a) at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), by mutual written agreement of Acquisition and the Company (acting through the Special Committee); or

(b) by either the Company (acting through the Special Committee) or Acquisition, at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that the Effective Time shall not have occurred on or before August 31, 2016, (such date referred to herein as the "**Outside Date**"); provided that the right to terminate this Agreement pursuant to this Section 9.1(b) shall not be available to any party hereto (i) whose actions or omissions have been a principal cause of, or primarily resulted in, the failure of the Merger to occur on or before such date and such action or failure to act constitutes a breach of this Agreement or (ii) that is in material breach of this Agreement; or

(c) by either the Company (acting through the Special Committee) or Acquisition, at any time prior to the Effective Time, in the event that the Company shall have failed to obtain the Requisite Shareholder Approval after the final adjournment of the Company Shareholders Meeting at which a vote is taken on this Agreement and the Merger; or

(d) by the Company (acting through the Special Committee) in the event that: (i) the Company Board (acting through the Special Committee) shall have determined in good faith (after consultation with outside legal counsel) that the failure to terminate this Agreement would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law; (ii) the Company shall have delivered to Acquisition a Recommendation Change Notice; or (iii) the Company shave have entered into an Alternative Acquisition Agreement; or

(e) by the Company (acting through the Special Committee), at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that (i) the Company has not breached any of its representations, warranties or covenants under this Agreement in any material respect and (ii) Acquisition shall have breached any of its representations, warranties or covenants under this Agreement such that the conditions set forth in Section 8.3(a) or Section 8.3(b) would not be satisfied and shall have failed to cure such breach within thirty (30) Business Days after Acquisition has received written notice of such breach from the Company (it being understood that the Company shall not be permitted to terminate this Agreement pursuant to this Section 9.1(e) in respect of the breach set forth in any such written notice (A) at any time during such thirty (30) Business Day period, and (B) at any time after such thirty (30) Business Day period if Acquisition shall have cured such breach during such thirty (30) Business Day period); or

(f) by the Company (acting through the Special Committee), in the event that (i) the conditions set forth in Section 8.1 and Section 8.2 have been satisfied (excluding conditions that by their terms are to be satisfied on the Closing Date) and (ii) Acquisition fails to complete the Closing within five (5) Business Days following the date the Closing should have occurred; or

(g) subject to Section 7.6, by Acquisition, at any time prior to the Effective Time (notwithstanding the prior receipt of the Requisite Shareholder Approval), in the event that (i) Acquisition has not breached any of its representations, warranties or covenants under this Agreement in any material respect, and (ii) the Company shall have breached any of its representations, warranties or covenants under this Agreement such that the conditions set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied and shall have failed to cure such material breach within thirty (30) Business Days after the Company has received written notice of such breach from Acquisition (it being understood that Acquisition shall not be permitted to terminate this Agreement pursuant to this Section 9.1(g) in respect of the breach set forth in any such written notice (A) at any time during such thirty (30) Business Day period, and (B) at any time after such thirty (30) Business Day period if the Company shall have cured such breach during such thirty (30) Business Day period); or

(h) by Acquisition, in the event that the Company Board or the Special Committee shall have effected and not withdrawn a Company Board Recommendation Change; provided that Acquisition's right to terminate this Agreement pursuant to this Section 9.1(h) in respect of a Company Board Recommendation Change shall expire ten (10) Business Days after the first date upon which the Company makes such Company Board Recommendation Change

Section 9.2 Notice of Termination; Effect of Termination. Any proper and valid termination of this Agreement pursuant to Section 9.1 shall be effective immediately upon the delivery of written notice of the terminating party to the other party or parties hereto, as applicable. In the event of the termination of this Agreement pursuant to Section 9.1, this Agreement shall be of no further force or effect without liability of any party or parties hereto, as applicable (or any director, officer, employee, affiliate, agent or other representative of such party or parties) to the other party or parties hereto, as applicable, except for the terms of this Section 9.2, Section 9.3 and Article X, each of which shall survive the termination of this Agreement; provided that nothing herein shall relieve any party hereto from liabilities for breach of this Agreement, subject to the limitations set forth in Section 9.3(d).

Section 9.3 Fees and Expenses.

(a) General. Except as otherwise set forth in this Section 9.3, all fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party or parties, as applicable, incurring such expenses whether or not the Merger is consummated.

(b) Company Payments.

(i) In the event that this Agreement is terminated (A) by the Company pursuant to Section 9.1(d) or (B) by Acquisition pursuant to Section 9.1(g) or Section 9.1(h), then in either case, the Company shall pay to Acquisition the Company Termination Fee plus, Acquisition's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by Acquisition and its Affiliates in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by Acquisition, within two (2) Business Days after such termination.

(ii) In the event that (A) a *bona fide* written offer or proposal (other than an offer or proposal by Acquisition or in connection with the transactions contemplated hereby) to engage in an Acquisition Transaction (provided that for purposes of this Section 9.3(b)(ii), all percentages included in the definition of Acquisition Transaction shall be increased to 50%) shall have been made after the date hereof and prior to the Company Shareholders Meeting, and not withdrawn as of the Company Shareholders Meeting, (B) following the occurrence of an event described in the preceding clause (A), this Agreement is terminated by the Company pursuant to Section 9.1(c) (provided that the Principal Shareholders unanimously voted in favor of the transactions contemplated hereby) and (C) within 12 months after the termination of this Agreement, the Company consummates the transactions contemplated by such same Acquisition Transaction; then the Company shall pay to Acquisition the Company Termination Fee plus, Acquisition's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by Acquisition and its Affiliates in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by Acquisition, within two (2) Business Days following the consummation of the transactions contemplated by such same Acquisition Transaction.

(iii) The parties hereto acknowledge and hereby agree that in no event shall the Company be required to pay the Company Termination Fee on more than one occasion, whether or not the Company Termination Fee may be payable under more than one provision of this Agreement at the same or at different times and the occurrence of different events.

(c) Acquisition Payments. In the event that this Agreement is terminated by the Company pursuant to Section 9.1(e) or Section 9.1(f), then in either case, Acquisition shall pay to the Company the Acquisition Termination Fee plus, the Company's reasonable out-of-pocket expenses, including attorney's fees, actually incurred by the Company and its Subsidiaries in connection with the Merger on or prior to the termination of this Agreement, by wire transfer of immediately available funds to an account or accounts designated in writing by the Company, within two (2) Business Days after such termination. The parties hereto acknowledge and hereby agree that in no event shall Acquisition be required to pay the Acquisition Termination Fee on more than one occasion, whether or not the Acquisition Termination Fee may be payable under more than one provision of this Agreement at the same or at different times and the occurrence of different events.

Section 9.4 Amendment. Subject to applicable Law and subject to the other provisions of this Agreement, this Agreement may be amended by the parties hereto at any time by execution of an instrument in writing signed on behalf of each of Acquisition and the Company; provided that (a) any such amendment by the Company shall require the approval of the Special Committee and (b) in the event that the Company has received the Requisite Shareholder Approval, no amendment shall be made to this Agreement that requires the approval of the Company Shareholders under the NRS without obtaining the Requisite Shareholder Approval of such amendment.

Section 9.5 Extension; Waiver. At any time and from time to time prior to the Effective Time, any party or parties hereto may, to the extent legally allowed and except as otherwise set forth herein, (a) extend the time for the performance of any of the obligations or other acts of the other party or parties hereto, as applicable, (b) waive any inaccuracies in the representations and warranties made to such party or parties hereto contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions for the benefit of such party or parties hereto contained herein. Any agreement on the part of a party or parties hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party or parties, as applicable. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

ARTICLE X
GENERAL PROVISIONS

Section 10.1 Survival of Representations, Warranties and Covenants. The representations and warranties of the Company and Acquisition contained in this Agreement shall terminate at the earlier of the Effective Time or termination of this Agreement pursuant to Article IX, and only the covenants that by their terms survive the Effective Time or termination of this Agreement shall so survive the Effective Time or termination of this Agreement in accordance with their respective terms.

Section 10.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (a) four (4) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service, or (c) immediately upon delivery by email, by hand or by facsimile (with a written or electronic confirmation of delivery), in each case to the intended recipient as set forth below:

(a) if to Acquisition to:

China Yida Holding Acquisition Co.
28/F Yifa Building
No. 111 Wusi Road
Fuzhow, Fujian, P.R. China
Attention: Minhua Chen

with a copy (which shall not constitute notice) to:

McLaughlin & Stern, LLP
260 Madison Avenue
New York, NY 10024
Attention: Steven Schuster
David W. Sass
Telephone No.: 212-448-1100
Fax No.: 212-448-6277

(b) if to the Company, to (or if to the Special Committee, in care of the Company):

China Yida Holding, Co.
28/F Yifa Building
No. 111 Wusi Road
Fuzhow, Fujian
P.R. China
Attention: Jocelyn Chen
Telephone No.: 86 591 2830 2230

with a copy (which shall not constitute notice) to:

Sidley & Austin LLP
Suite 2009
5 Corporate Avenue
150 Hubin Road
Shanghai 200021
China
Attention: Joseph Chan
Telephone No.: 86 21 2322 9328
Fax No.: 86 21 5306 8966

Section 10.3 Assignment. No party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other parties. Subject to the preceding sentence, this Agreement shall (a) be binding upon the parties hereto and their respective successors and permitted assigns and (b) inure to the benefit of the parties hereto and their respective successors and permitted assigns and the Special Committee.

Section 10.4 Entire Agreement. This Agreement, the Voting Agreement, the Articles of Merger, the Limited Guarantee and the other documents and instruments and other agreements among the parties hereto as contemplated by or referred to herein and therein, including the Company Disclosure Letter and the Annexes hereto, constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. EACH PARTY HERETO AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT, NEITHER ACQUISITION OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR REPRESENTATIVES, ON THE ONE HAND, NOR THE COMPANY OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR REPRESENTATIVES, ON THE OTHER HAND, MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER, AND EACH PARTY HEREBY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), OR AS TO THE ACCURACY OR COMPLETENESS OF ANY OTHER INFORMATION, MADE (OR MADE AVAILABLE BY) BY ITSELF OR ANY OF ITS REPRESENTATIVES, WITH RESPECT TO, OR IN CONNECTION WITH, THE NEGOTIATION, EXECUTION OR DELIVERY OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, NOTWITHSTANDING THE DELIVERY OR DISCLOSURE TO THE OTHER OR THE OTHER'S REPRESENTATIVES OF ANY DOCUMENTATION OR OTHER INFORMATION WITH RESPECT TO ANY ONE OR MORE OF THE FOREGOING.

Section 10.5 Third Party Beneficiaries. Except as provided in Section 7.7, Acquisition and the Company hereby agree that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other party hereto, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein. The parties hereto further agree that the rights of third party beneficiaries under Section 7.7 shall not arise unless and until the Effective Time occurs. The representations and warranties in this Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties hereto. Any inaccuracies in such representations and warranties are subject to waiver by the parties hereto in accordance with Section 9.5 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, Persons other than the parties hereto may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

Section 10.6 Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

Section 10.7 Remedies.

(a) Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy.

(b) The parties hereto hereby agree that irreparable damage would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached, and that money damages or other legal remedies would not be an adequate remedy for any such damages. Accordingly, the parties hereto acknowledge and hereby agree that in the event of any breach or threatened breach by the Company, on the one hand, or Acquisition on the other hand, of any of their respective covenants or obligations set forth in this Agreement and the Voting Agreement, the Company, on the one hand, and Acquisition, on the other hand, shall be entitled to an injunction or injunctions to prevent or restrain breaches or threatened breaches of this Agreement and the Voting Agreement by the other (as applicable), and to specifically enforce the terms and provisions of this Agreement and the Voting Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of the other under this Agreement and the Voting Agreement to cause Acquisition to fully enforce the terms thereof the and applicable laws and to thereafter cause the transactions contemplated by this Agreement, including the Merger, to be consummated. Acquisition hereby agrees not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches or threatened breaches of this Agreement by Acquisition, and to specifically enforce the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of Acquisition under this Agreement. If, prior to the Outside Date, any party brings any Legal Proceeding to enforce specifically the performance of the terms and provisions hereof by any other party, the Outside Date shall automatically be extended by (x) the amount of time during which such Legal Proceeding is pending, plus twenty (20) Business Days or (y) such other time period established by the court of competent jurisdiction presiding over such Legal Proceeding.

Section 10.8 Governing Law. This Agreement and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be interpreted, construed, performed and enforced in accordance with the Laws of the State of Nevada without giving effect to its principles or rules of conflict of laws to the extent such principles or rules would require or permit the application of the Laws of another jurisdiction.

Section 10.9 Consent to Jurisdiction. In the event any dispute arises among the parties hereto out of or in relation to this Agreement, including any dispute regarding its breach, termination or validity, the parties shall attempt in the first instance to resolve such dispute through friendly consultations. If any dispute has not been resolved by friendly consultations within thirty (30) days after any party has served written notice on the other parties requesting the commencement of such consultations, then any party may demand that the dispute be finally settled by arbitration in accordance with the following provisions of this Section 10.9.

Subject to Section 10.7 and the last sentence of this Section 10.9, any disputes, actions and proceedings against any party or arising out of or in any way relating to this Agreement shall be submitted to the Hong Kong International Arbitration Centre ("**HKIAC**") and resolved in accordance with the Arbitration Rules of HKIAC in force at the relevant time (the "**Rules**") and as may be amended by this Section 9.09. The place of arbitration shall be Hong Kong. The official language of the arbitration shall be English and the arbitration tribunal shall consist of three arbitrators (each, an "**Arbitrator**"). The claimant(s), irrespective of number, shall nominate jointly one Arbitrator; the respondent(s), irrespective of number, shall nominate jointly one Arbitrator; and a third Arbitrator will be nominated jointly by the first two Arbitrators and shall serve as chairman of the arbitration tribunal. In the event the claimant(s) or respondent(s) or the first two Arbitrators shall fail to nominate or agree the joint nomination of an Arbitrator or the third Arbitrator within the time limits specified by the Rules, such Arbitrator shall be appointed promptly by the HKIAC. The arbitration tribunal shall have no authority to award punitive or other punitive-type damages.

The arbitration shall be conducted in private. The parties agree that all documents and evidence submitted in the arbitration (including without limitation any statements of case and any interim or final award, as well as the fact that an arbitral award has been made) shall remain confidential both during and after any final award that is rendered unless the parties hereto otherwise agree in writing. Upon and after the submission of any dispute to arbitration, the parties shall continue to exercise their remaining respective rights, and fulfill their remaining respective obligations under this Agreement, except insofar as the same may relate directly to the matters in dispute. The award of the arbitration tribunal shall be final and binding upon the disputing parties. Any party to an award may apply to any court of competent jurisdiction for enforcement of such award and, for purposes of the enforcement of such award, the parties irrevocably and unconditionally submit to the jurisdiction of any court of competent jurisdiction and waive any defenses to such enforcement based on lack of personal jurisdiction or inconvenient forum or the defense of sovereign immunity and any other defense based on the fact or allegation that it is an agency or instrumentality of a sovereign state or is otherwise entitled to immunity.

Section 10.10 WAIVER OF JURY TRIAL. EACH OF ACQUISITION AND THE COMPANY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ACQUISITION OR THE COMPANY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

Section 10.11 Company Disclosure Letter References. The parties hereto agree that the disclosure set forth in any particular section or subsection of the Company Disclosure Letter shall be deemed to be an exception to (or, as applicable, a disclosure for purposes of) (a) the representations and warranties (or covenants, as applicable) of the Company that are set forth in the corresponding section or subsection of this Agreement, and (ii) any other representations and warranties (or covenants, as applicable) of the Company that are set forth in this Agreement, but in the case of this clause (b) only if the relevance of that disclosure as an exception to (or a disclosure for purposes of) such other representations and warranties (or covenants, as applicable) is reasonably Acquisition on the face of such disclosure. The parties hereto further agree that the disclosure of any matter or item in the Company Disclosure Letter shall not be deemed to constitute an acknowledgement that such matter or item is required to be disclosed therein or is material to a representation or warranty set forth in this Agreement and shall not be used as a basis for interpreting the terms "material," "materially," Company Material Adverse Effect" or any word or phrase of similar import and does not mean that such matter or item would, alone or together with any other matter or item, have a Company Material Adverse Effect.

Section 10.12 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their respective duly authorized officers to be effective as of the date first above written.

China Yida Holding, Co.

By: /s/ Renjiu Pei
Name: Renjiu Pei
Title: Director

Signature Page

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their respective duly authorized officers to be effective as of the date first above written.

China Yida Holding Acquisition Co.

By: /s/ Minhua Chen
Name: Minhua Chen
Title: President

Signature Page

Exhibit A

AMENDED AND RESTATED LIMITED GUARANTEE

Exhibit B

VOTING AGREEMENT

Exhibit B

EXHIBIT 9

EXHIBIT 9

ANNUITY & LIFE REASSURANCE, LTD.

WILLIAM P. WELLS, DIRECTOR
ANNUITY & LIFE REASSURANCE, LTD.
5100 POPLAR AVENUE
MEMPHIS, TENNESSEE 38137

June 14, 2016

Via Hand Delivery

China Yida Holding, Co.
c/o Weiling Zhao
2840 S. Jones Blvd., Ste. D-1
Las Vegas, NV 89146

Re: Notice of Intent to Demand Payment for Shares
Special Meeting Date: June 28, 2016
Special Meeting Time: 9:00 a.m. [Beijing Time]

Dear Board of Directors,

Pursuant to NRS 92A.420(1)(a), Annuity & Life Reassurance, Ltd. hereby gives written notice of intent to demand payment for shares if the proposed merger transaction is approved at the above-referenced Special Meeting of the Shareholders. Annuity & Life Reassurance, Ltd. is the beneficial owner of 22,722 shares in China Yida Holding, Co.

Pursuant to the attached instruction letters, please direct all further notices regarding this matter to the address listed above.

Sincerely,

Annuity & Life Reassurance, Ltd.

William P. Wells, Director

Enclosures (Instruction Letter from US Bank and Cede & Co.)

POPE INVESTMENTS, LLC

WILLIAM P. WELLS, PRESIDENT
POPE INVESTMENTS, LLC
5100 POPLAR AVENUE
MEMPHIS, TENNESSEE 38137

June 14, 2016

Via Hand Delivery

China Yida Holding, Co.
c/o Weiling Zhao
2840 S. Jones Blvd., Ste. D-1
Las Vegas, NV 89146

Re: **Notice of Intent to Demand Payment for Shares**
Special Meeting Date: June 28, 2016
Special Meeting Time: 9:00 a.m. [Beijing Time]

Dear Board of Directors,

Pursuant to NRS 92A.420(1)(a), Pope Investments, LLC hereby gives written notice of intent to demand payment for shares if the proposed merger transaction is approved at the above-referenced Special Meeting of the Shareholders. Pope Investments, LLC is the beneficial owner of 223,080 shares in China Yida Holding, Co.

Pursuant to the attached instruction letters, please direct all further notices regarding this matter to the address listed above.

Sincerely,

Pope Investments, LLC

William P. Wells, President

Enclosure (Instruction Letters from US Bank and Cede & Co.)

POPE INVESTMENTS II, LLC

WILLIAM P. WELLS, PRESIDENT
POPE INVESTMENTS II, LLC
5100 POPLAR AVENUE
MEMPHIS, TENNESSEE 38137

June 14, 2016

Via Hand Delivery

China Yida Holding, Co.
c/o Weiling Zhao
2840 S. Jones Blvd., Ste. D-1
Las Vegas, NV 89146

Re: **Notice of Intent to Demand Payment for Shares**
Special Meeting Date: June 28, 2016
Special Meeting Time: 9:00 a.m. [Beijing Time]

Dear Board of Directors,

Pursuant to NRS 92A.420(1)(a), Pope Investments II, LLC hereby gives written notice of intent to demand payment for shares if the proposed merger transaction is approved at the above-referenced Special Meeting of the Shareholders. Pope Investments II, LLC is the beneficial owner of 678,713 shares in China Yida Holding, Co.

The attached instruction letter concerns Pope Investments II, LLC's 302,713 shares held through Cede & Co. and the balance of 376,000 shares are held in book-entry form with your transfer agent, American Stock & Transfer Company.

Pursuant to this notice and the attached instruction letters, please direct all further notices regarding this matter to the address listed above.

Sincerely,

Pope Investments II, LLC

William P. Wells, President

Enclosures (Instruction Letter from US Bank and Cede & Co.)

EXHIBIT 10

EXHIBIT 10

China Yida Holding, Co.
Special Meeting Minutes
June 28, 2016

MINUTES of the Special Meeting of Shareholders of China Yida Holding, Co. (the "Company"), held at 28/F, Yifa Building, No.111 Wusi Road, Fuzhou, Fujian Province, China 350003 on June 28, 2016 at 9:00 a.m. (the "Meeting")

Present:
Shareholders: please see Attachment 1

In attendance:
Directors: please see Attachment 2
Others: please see Attachment 3

1. CHAIRMAN
Mr. Minhua Chen, the Chief Executive Officer, President and Chairman of the board of directors, chaired the meeting.

2. NOTICE OF MEETING AND QUORUM
The Chairman confirmed that a quorum was present and that the Notice convening the Meeting had been served on shareholders for the prescribed period. With the approval of shareholders attending the Meeting, the Notice convening the Meeting, a copy of which is attached to and form part of these minutes, were taken as read.

3. POLL
The Chairman demanded that all the resolutions proposed at the Meeting be voted on by poll in accordance with the Company's By-Laws and directed that the poll be conducted after all the resolutions had been proposed and considered. A copy of the poll results is attached to and form part of these minutes.

4. DISCUSSIONS
The Chairman asked whether any of the shareholders present had any questions in relation to the matters before the Meeting. There being no further questions, the Chairman proceeded to the business of the Meeting.

5. RESOLUTIONS
RESOLVED:
(i) THAT the Amended and Restated Agreement and Plan of Merger (the "Merger Agreement"), dated as of April 12, 2016, by and between the Company and China Yida Holding Acquisition Co. ("Acquisition"), a corporation organized under the laws of the State of Nevada, providing for the merger of Acquisition with and into the Company (the "Merger"), with the Company surviving the Merger and becoming wholly owned by Mr. Minhua Chen and Ms. Yanling Fan and any and all transactions contemplated thereby be and are hereby authorized, approved and adopted by the Company.

6. CLOSE OF MEETING
There being no further business, the proceedings then concluded.

Mr. Minhua Chen
Chairman of the Meeting

EXHIBIT 11

EXHIBIT 11

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 25

OMB APPROVAL	
OMB Number:	3235-0080
Expires:	March 31, 2018
Estimated average burden hours per response:	1.7

NOTIFICATION OF REMOVAL FROM LISTING AND/OR REGISTRATION UNDER SECTION 12(b) OF THE SECURITIES EXCHANGE ACT OF 1934.

Commission File Number 001-34567

Issuer: CHINA YIDA HOLDING, CO.

Exchange: NASDAQ Stock Market LLC

(Exact name of Issuer as specified in its charter, and name of Exchange where security is listed and/or registered)

Address: 28/F Yifa Building
No. 111 Wusi Road Fuxhou
Fujian CHINA

Telephone number: +1 506 532-8515

(Address, including zip code, and telephone number, including area code, of Issuer's principal executive offices)

Common Stock

(Description of class of securities)

Please place an X in the box to designate the rule provision relied upon to strike the class of securities from listing and registration:

- ☐ 17 CFR 240.12d2-2(a)(1)
- ☐ 17 CFR 240.12d2-2(a)(2)
- ☑ 17 CFR 240.12d2-2(a)(3)
- ☐ 17 CFR 240.12d2-2(a)(4)
- ☐ Pursuant to 17 CFR 240.12d2-2(b), the Exchange has complied with its rules to strike the class of securities from listing and/or withdraw registration on the Exchange. [1]
- ☐ Pursuant to 17 CFR 240.12d2-2(c), the Issuer has complied with its rules of the Exchange and the requirements of 17 CFR 240.12d-2(c) governing the voluntary withdrawal of the class of securities from listing and registration on the Exchange.

Pursuant to the requirements fo the Securities Exchange Act of 1934, NASDAQ Stock Market LLC certifies that it has reasonable grounds to believe that it meets all of the requirements for filing the Form 25 and has caused this notification to be signed on its behalf by the undersigned duly authorized person.

2016-07-08	By	Tara Petta	Senior Director
Date		Name	Title

1 Form 25 and attached Notice will be considered compliance with the provisions of 17 CFR 240.19d-1 as applicable. See General Instructions.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB Number.

EXHIBIT 12

EXHIBIT 12

EXHIBIT A

CHINA YIDA HOLDING, CO.

DEMAND FOR PAYMENT FORM

THIS FORM IS NOT NECESSARILY EXHAUSTIVE OF THE PROCEDURAL REQUIREMENTS YOU MUST SATISFY TO PROPERLY EXERCISE DISSENTERS' RIGHTS UNDER NEVADA LAW. IN VIEW OF THE COMPLEXITY OF DISSENTERS' RIGHTS PROVISIONS UNDER NEVADA LAW, ANY STOCKHOLDER WHO IS CONSIDERING EXERCISING DISSENTERS' RIGHTS SHOULD CONSULT HIS, HER OR ITS LEGAL ADVISOR.

Effective July 8, 2016, China Yida Holding Acquisition Co., a Nevada corporation ("**Acquisition**"), was merged (the "**Merger**") with and into China Yida Holding, Co., a Nevada corporation (the "**Company**"), with the Company continuing as the surviving entity, in accordance with that certain Amended and Restated Agreement and Plan of Merger (the "**Merger Agreement**"), dated as of April 12, 2016, by and between Acquisition and the Company.

The undersigned hereby elects to exercise dissenters' rights pursuant to Sections 92A.300 to 92A.500, inclusive, of the Nevada Revised Statutes (the "**NRS**") with respect to the Merger, and dema nds payment for all shares of Company capital stock beneficially owned by the undersigned.

Announcement of the terms of the Merger was first made to the news media or the Company's stockholders on March 10, 2016 (the "**Announcement Date**"). Pursuant to Section 92A.440 of the NRS, the undersigned holder of Company capital stock hereby certifies that the undersigned acquired beneficial ownership of all shares of Company capital stock held by the undersigned (please check one):

__X__ prior to the Announcement Date, or ____ on or after the Announcement Date.

IN WITNESS WHEREOF, this Demand has been signed on this 25 day of July, 2016.

Pope Investments, LLC
(Print or type full name of stockholder)

(Signature)

Assistant Vice President
(Title, if applicable)

A COMPLETED AND EXECUTED VERSION OF THIS FORM MUST BE RECEIVED BY THE COMPANY, ALONG WITH THE CERTIFICATES REPRESENTING YOUR SHARES OF COMPANY CAPITAL STOCK, NO LATER THAN THIRTY (30) DAYS AFTER YOUR RECEIPT OF THE DISSENTERS' NOTICE TO WHICH THIS FORM IS ATTACHED.

17972

CYH0001015

NUMBER

CYH 1015

SHARES

******223080***

CHINA YIDA HOLDING, CO.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA

CUSIP 16945D 30 3

SEE REVERSE FOR CERTAIN DEFINITIONS

THIS CERTIFIES that

CEDE & CO
PO BOX 20
BOWLING GREEN STATION
NEW YORK NY 10004

0000017004

******223080******
*******223080*****
********223080****
*********223080***
**********223080**
***********223080*

is the owner of

TWO HUNDRED TWENTY-THREE THOUSAND EIGHTY

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON STOCK OF THE PAR VALUE OF $.001 PER SHARE OF

CHINA YIDA HOLDING, CO. transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this certificate properly endorsed. This certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the Certificate of Incorporation of the Corporation and any amendments thereto, to all of which the holder, by acceptance hereof, assents.

This certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

JUNE 13, 2016

17972000204

JBON

CHINA YIDA HOLDING, CO. CORPORATE SEAL 2012 NEVADA

Secretary

President

Countersigned and Registered:
AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Brooklyn, NY)
Transfer Agent and Registrar

By

Authorized Signature

K61684009003

K61673203200

K61673013012

AMERICAN BANK NOTE COMPANY.

EXHIBIT A

CHINA YIDA HOLDING, CO.

DEMAND FOR PAYMENT FORM

THIS FORM IS NOT NECESSARILY EXHAUSTIVE OF THE PROCEDURAL REQUIREMENTS YOU MUST SATISFY TO PROPERLY EXERCISE DISSENTERS' RIGHTS UNDER NEVADA LAW. IN VIEW OF THE COMPLEXITY OF DISSENTERS' RIGHTS PROVISIONS UNDER NEVADA LAW, ANY STOCKHOLDER WHO IS CONSIDERING EXERCISING DISSENTERS' RIGHTS SHOULD CONSULT HIS, HER OR ITS LEGAL ADVISOR.

Effective July 8, 2016, China Yida Holding Acquisition Co., a Nevada corporation ("**Acquisition**"), was merged (the "**Merger**") with and into China Yida Holding, Co., a Nevada corporation (the "**Company**"), with the Company continuing as the surviving entity, in accordance with that certain Amended and Restated Agreement and Plan of Merger (the "**Merger Agreement**"), dated as of April 12, 2016, by and between Acquisition and the Company.

The undersigned hereby elects to exercise dissenters' rights pursuant to Sections 92A.300 to 92A.500, inclusive, of the Nevada Revised Statutes (the "**NRS**") with respect to the Merger, and demands payment for all shares of Company capital stock beneficially owned by the undersigned.

Announcement of the terms of the Merger was first made to the news media or the Company's stockholders on March 10, 2016 (the "**Announcement Date**"). Pursuant to Section 92A.440 of the NRS, the undersigned holder of Company capital stock hereby certifies that the undersigned acquired beneficial ownership of all shares of Company capital stock held by the undersigned (please check one):

☒ prior to the Announcement Date, or ☐ on or after the Announcement Date.

IN WITNESS WHEREOF, this Demand has been signed on this 25 day of July, 2016.

Pope Investments II, LLC
(Print or type full name of stockholder)

(Signature)

Assistant Vice President
(Title, if applicable)

A COMPLETED AND EXECUTED VERSION OF THIS FORM MUST BE RECEIVED BY THE COMPANY, ALONG WITH THE CERTIFICATES REPRESENTING YOUR SHARES OF COMPANY CAPITAL STOCK, NO LATER THAN THIRTY (30) DAYS AFTER YOUR RECEIPT OF THE DISSENTERS' NOTICE TO WHICH THIS FORM IS ATTACHED.

17972

CYH0001016

NUMBER
CYH 1016

SHARES
*****Two Hundred*****

CHINA YIDA HOLDING, CO.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA

CUSIP 16945D 30 3
SEE REVERSE FOR CERTAIN DEFINITIONS

THIS CERTIFIES that

CEDE & CO
PO BOX 20
BOWLING GREEN STATION
NEW YORK, NY 10004

0000010003

*****30E713******
******302713*****
*******302713****
********30271***
*********3027***
**********302***

is the owner of

THREE HUNDRED TWO THOUSAND SEVEN HUNDRED THIRTEEN

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON STOCK OF THE PAR VALUE OF $.001 PER SHARE OF

CHINA YIDA HOLDING, CO. transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this certificate properly endorsed. This certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the Certificate of Incorporation of the Corporation and any amendments thereto, to all of which the holder, by acceptance hereof, assents.

This certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

JUNE 13, 2016

17972000204

JB0N

CHINA YIDA HOLDING, CO CORPORATE SEAL 2012 NEVADA

Secretary

President

Countersigned and Registered:
AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Brooklyn, NY)
Transfer Agent
and Registrar

Authorized Signature

K61673013013

AMERICAN BANK NOTE COMPANY

EXHIBIT A

CHINA YIDA HOLDING, CO.

DEMAND FOR PAYMENT FORM

THIS FORM IS NOT NECESSARILY EXHAUSTIVE OF THE PROCEDURAL REQUIREMENTS YOU MUST SATISFY TO PROPERLY EXERCISE DISSENTERS' RIGHTS UNDER NEVADA LAW. IN VIEW OF THE COMPLEXITY OF DISSENTERS' RIGHTS PROVISIONS UNDER NEVADA LAW, ANY STOCKHOLDER WHO IS CONSIDERING EXERCISING DISSENTERS' RIGHTS SHOULD CONSULT HIS, HER OR ITS LEGAL ADVISOR.

Effective July 8, 2016, China Yida Holding Acquisition Co., a Nevada corporation ("**Acquisition**"), was merged (the "**Merger**") with and into China Yida Holding, Co., a Nevada corporation (the "**Company**"), with the Company continuing as the surviving entity, in accordance with that certain Amended and Restated Agreement and Plan of Merger (the "**Merger Agreement**"), dated as of April 12, 2016, by and between Acquisition and the Company.

The undersigned hereby elects to exercise dissenters' rights pursuant to Sections 92A.300 to 92A.500, inclusive, of the Nevada Revised Statutes (the "**NRS**") with respect to the Merger, and demands payment for all shares of Company capital stock beneficially owned by the undersigned.

Announcement of the terms of the Merger was first made to the news media or the Company's stockholders on March 10, 2016 (the "**Announcement Date**"). Pursuant to Section 92A.440 of the NRS, the undersigned holder of Company capital stock hereby certifies that the undersigned acquired beneficial ownership of all shares of Company capital stock held by the undersigned (please check one):

_X_ prior to the Annuncement Date, or ____ on or after the Announcement Date.

IN WITNESS WHEREOF, this Demand has been signed on this 25 day of July, 2016.

Annuity & Life Reassurance, LTD
(Print or type full name of stockholder)

(Signature)

Assistant Vice President
(Title, if applicable)

A COMPLETED AND EXECUTED VERSION OF THIS FORM MUST BE RECEIVED BY THE COMPANY, ALONG WITH THE CERTIFICATES REPRESENTING YOUR SHARES OF COMPANY CAPITAL STOCK, NO LATER THAN THIRTY (30) DAYS AFTER YOUR RECEIPT OF THE DISSENTERS' NOTICE TO WHICH THIS FORM IS ATTACHED.

17972

CYH0001017

NUMBER

CYH 1017

SHARES

*******22722*****

CHINA YIDA HOLDING, CO.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA

CUSIP 16945D 30 3

SEE REVERSE FOR CERTAIN DEFINITIONS

THIS CERTIFIES that

CEDE & CO
PO BOX 20
BOWLING GREEN STATION
NEW YORK NY 10004

0000010003

*******22722******
*******22722******
*******22722******
*******22722******
*******22722******
*******22722******

is the owner of

TWENTY-TWO THOUSAND SEVEN HUNDRED TWENTY-TWO

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON STOCK OF THE PAR VALUE OF $.001 PER SHARE OF

CHINA YIDA HOLDING, CO. transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this certificate properly endorsed. This certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the Certificate of Incorporation of the Corporation and any amendments thereto, to all of which the holder, by acceptance hereof, assents.

This certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

JUNE 13, 2016

17972000204

JBON

CHINA YIDA HOLDING, CO. CORPORATE SEAL 2012 NEVADA

Secretary

President

Countersigned and Registered:
AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC
(Brooklyn, NY)
Transfer Agent and Registrar

Authorized Signature

AMERICAN BANK NOTE COMPANY

K61673013014

EXHIBIT 13

EXHIBIT 13

SIDLEY AUSTIN LLP
SIDLEY

SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
+1 202 736 8000
+1 202 736 8711 FAX

mrosenthall@sidley.com
+1 202 736 8172

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GENEVA
HONG KONG
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MUNICH
NEW YORK
PALO ALTO
SAN FRANCISCO
SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D.C.

FOUNDED 1866

August 30, 2016

By Federal Express

Pope Investments, LLC
Attn: William P. Wells, President
5100 Poplar Avenue
Memphis, Tennessee 38137

Re: China Yida Holding, Co.

Dear Mr. Wells,

On behalf of our client, China Yida Holding, Co. (the "**Company**"), we are sending this letter and the referenced enclosure pursuant to Section 92A.460 of the Nevada Revised Statutes (the "**NRS**"), in response to your demand for payment, received by the Company on August 2, 2016.

Pursuant to NRS 92A.460(1), the Company shall pay the amount the Company estimates to be the fair value of Pope Investments, LLC's shares, plus accrued interest. We have been informed by the paying agent for the merger transaction, American Stock Transfer & Trust, LLC ("**AST**"), that AST is processing payment to U.S. Bank, N.A. ("**U.S. Bank**") for 223,080 shares of the Company's common stock, in the amount of $3.32 per share of common stock. Further, because AST was unable to pay amounts in addition to the merger consideration, the Company has additionally wired $5,580.06, representing the accrued interest on the merger consideration from the date of the closing of the merger through the date of such payment, to U.S. Bank for the benefit of Pope Investments, LLC.

Pursuant to NRS 92A.460(2)(a), in conjunction with such payment, the Company shall provide certain financial information, including the Company's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year (such information, collectively, the "**Financial Information**"). All of the required Financial Information is contained in the Company's definitive proxy statement (the "**Proxy Statement**") that was filed with the Securities and Exchange Commission (the "**SEC**") on May 25, 2016, and a copy of which is enclosed with this letter.

The Company estimates the fair value of the Company's common stock to be $3.32 per share (the "**Fair Value**"), the same amount paid by AST in exchange for the shares. The enclosed

SIDLEY AUSTIN LLP
SIDLEY

Proxy Statement discusses the analyses undertaken by the Special Committee of the Company's Board of Directors and by the Financial Advisor to the Special Committee to arrive at the Fair Value.

You have the right to demand payment under NRS 92A.480. If you do not make such a demand within thirty (30) days of the receipt of this letter, you shall be deemed to have accepted the above referenced payment in full satisfaction of the Company's obligations under Section 92A.300 to 92A.500, inclusive, of the NRS.

Very truly yours,

Michael Rosenthall

Enclosure: Definitive Proxy Statement of China Yida Holding, Co., dated May 25, 2016

SIDLEY AUSTIN LLP
SIDLEY

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SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D.C.

FOUNDED 1866

August 30, 2016

By Federal Express

Pope Investments II, LLC
Attn: William P. Wells, President
5100 Poplar Avenue
Memphis, Tennessee 38137

Re: China Yida Holding, Co.

Dear Mr. Wells,

On behalf of our client, China Yida Holding, Co. (the "**Company**"), we are sending this letter and the referenced enclosure pursuant to Section 92A.460 of the Nevada Revised Statutes (the "**NRS**"), in response to your demand for payment, received by the Company on August 2, 2016.

Pursuant to NRS 92A.460(1), the Company shall pay the amount the Company estimates to be the fair value of Pope Investments II, LLC's shares, plus accrued interest. We have been informed by the paying agent for the merger transaction, American Stock Transfer & Trust, LLC ("**AST**"), that AST is processing payment to U.S. Bank, N.A. ("**U.S. Bank**") for 302,713 shares of the Company's common stock, in the amount of $3.32 per share of common stock. Further, because AST was unable to pay amounts in addition to the merger consideration, the Company has additionally wired $7,571.97, representing the accrued interest on the merger consideration from the date of the closing of the merger through the date of such payment, to U.S. Bank for the benefit of Pope Investments II, LLC.

Pursuant to NRS 92A.460(2)(a), in conjunction with such payment, the Company shall provide certain financial information, including the Company's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year (such information, collectively, the "**Financial Information**"). All of the required Financial Information is contained in the Company's definitive proxy statement (the "**Proxy Statement**") that was filed with the Securities and Exchange Commission (the "**SEC**") on May 25, 2016, and a copy of which is enclosed with this letter.

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SIDLEY AUSTIN LLP
SIDLEY

Proxy Statement discusses the analyses undertaken by the Special Committee of the Company's Board of Directors and by the Financial Advisor to the Special Committee to arrive at the Fair Value.

You have the right to demand payment under NRS 92A.480. If you do not make such a demand within thirty (30) days of the receipt of this letter, you shall be deemed to have accepted the above referenced payment in full satisfaction of the Company's obligations under Section 92A.300 to 92A.500, inclusive, of the NRS.

Very truly yours,

Michael Rosenthall

Enclosure: Definitive Proxy Statement of China Yida Holding, Co., dated May 25, 2016

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mrosenthall@sidley.com
+1 202 736 8172

August 30, 2016

By Federal Express

Annuity & Life Reassurance, Ltd.
Attn: William P. Wells, Director
5100 Poplar Avenue
Memphis, Tennessee 38137

Re: China Yida Holding, Co.

Dear Mr. Wells,

On behalf of our client, China Yida Holding, Co. (the "**Company**"), we are sending this letter and the referenced enclosure pursuant to Section 92A.460 of the Nevada Revised Statutes (the "**NRS**"), in response to your demand for payment, received by the Company on August 2, 2016.

Pursuant to NRS 92A.460(1), the Company shall pay the amount the Company estimates to be the fair value of Annuity & Life Reassurance, Ltd.'s shares, plus accrued interest. We have been informed by the paying agent for the merger transaction, American Stock Transfer & Trust, LLC ("**AST**"), that AST is processing payment to U.S. Bank, N.A. ("**U.S. Bank**") for 22,722 shares of the Company's common stock, in the amount of $3.32 per share of common stock. Further, because AST was unable to pay amounts in addition to the merger consideration, the Company has additionally wired $568.36, representing the accrued interest on the merger consideration from the date of the closing of the merger through the date of such payment, to U.S. Bank for the benefit of Annuity & Life Reassurance, Ltd.

Pursuant to NRS 92A.460(2)(a), in conjunction with such payment, the Company shall provide certain financial information, including the Company's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year (such information, collectively, the "**Financial Information**"). All of the required Financial Information is contained in the Company's definitive proxy statement (the "**Proxy Statement**") that was filed with the Securities and Exchange Commission (the "**SEC**") on May 25, 2016, and a copy of which is enclosed with this letter.

The Company estimates the fair value of the Company's common stock to be $3.32 per share (the "**Fair Value**"), the same amount paid by AST in exchange for the shares. The enclosed

Proxy Statement discusses the analyses undertaken by the Special Committee of the Company's Board of Directors and by the Financial Advisor to the Special Committee to arrive at the Fair Value.

You have the right to demand payment under NRS 92A.480. If you do not make such a demand within thirty (30) days of the receipt of this letter, you shall be deemed to have accepted the above referenced payment in full satisfaction of the Company's obligations under Section 92A.300 to 92A.500, inclusive, of the NRS.

Very truly yours,

Michael Rosenthall

Enclosure: Definitive Proxy Statement of China Yida Holding, Co., dated May 25, 2016

EXHIBIT 14

EXHIBIT 14

CHINA YIDA HOLDING, CO.

DISSENTER'S ESTIMATE OF FAIR VALUE AND DEMAND FOR PAYMENT

The undersigned, for and on behalf of the former beneficial stockholders of China Yida Holding, Co., a Nevada corporation (the "Company"), indicated on Schedule 1 hereto (collectively, the "Demanding Stockholders"), hereby demands payment, pursuant to Nevada Revised Statutes ("NRS") 92A.480, for the shares of the Company's common stock, par value $.001 per share (the "Common Stock") that each of the Demanding Stockholders would otherwise hold after giving effect to the merger transaction effectuated on July 8, 2016 (the "Merger").

The undersigned hereby demands payment of the below-stated aggregate fair value of the shares of Common Stock the Demanding Stockholders would otherwise hold after giving effect to the Merger (determined based on the below-stated estimate of the fair value of one (1) share of Common Stock), less any payment already made by the Company pursuant to NRS 92A.460.

The undersigned estimates the fair value (as defined in NRS 92A.320) of one (1) share of Common Stock as follows:

$23.28

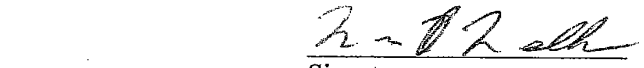
The undersigned estimates the aggregate fair value (as defined in NRS 92A.320) of the shares that the Demanding Stockholders would otherwise hold after giving effect to the Merger, including interest, as follows:

$21,767,306.41

The price per share is based upon the analysis of experts retained by the dissenting shareholders that have evaluated the Company's assets and liabilities and concluded that the net value of its assets ("NAV") is in aggregate $91,116,462

The price per share is $23.28. The total amount demanded, with interest after the payment already received equates to $20.54 per share. See Schedule 1 attached to the notice of valuation form filed on today's date for an individual's account.

Dated: September 21, 2016



Signature

William P. Wells
President, Pope Asset Management LLC, Manager Pope Investments LLC, Pope Investments II LLC, Director Annuity and Life Reassurance Ltd.

5100 Poplar Avenue Suite 3120
Memphis, TN 38137

Schedule 1

China Yida Holding Co.

Dissenting Stockholders and Demand for Fair Value and Accrued Interest

Name of Beneficial Stockholder	Shares	Fair Value	Accrued Interest	Fair Value Plus Accrued Interest	Amount Demanded
Annuity and Life Reassurance Ltd.	22,722	$528,968	$6,011.52	$534,979.68	$466,813.68
Pope Investments LLC	223,080	$5,193,302	$59,019.86	$5,252,322.26	$4,583,082.26
Pope Investments II LLC	678,713	$15,800,439	$179,565.83	$15,980,004.47	$13,943,865.47
Total	924,515	$21,522,709	$244,597.21	$21,767,306.41	$18,993,761.41

EXHIBIT 15

EXHIBIT 15

China Yida Buys

Annuity and Life Re

Trade Date	Quantity		Cost
12/31/2013	1,360	$	4,260.88
12/31/2013	2,300	$	7,205.90
12/31/2013	22,722	$	71,188.22

Pope Investments LLC

Trade Date	Quantity		Cost
4/1/2009	10,000	$	11,200.00
4/3/2009	4,059	$	5,461.38
4/6/2009	1,300	$	1,963.00
4/8/2009	4,300	$	6,928.16
4/14/2009	6,300	$	11,275.11
4/15/2009	550	$	1,111.00
4/20/2009	2,108	$	4,764.08
4/21/2009	500	$	1,130.00
4/22/2009	500	$	1,135.00
10/26/2010	500,000	$	5,000,000.00
9/17/2012	5,391	$	2,504.86
9/24/2012	5,258	$	2,432.64
9/25/2012	24,144	$	11,160.21
10/1/2012	3,079	$	1,618.69
10/2/2012	409	$	247.95
10/4/2012	3,098	$	1,729.21
11/12/2012	4,100	$	2,788.40
11/14/2012	3,800	$	2,567.20
11/19/2012	1,620	$	5,130.11
11/30/2012	28,900	$	101,088.30
12/3/2012	20,000	$	69,677.00
12/4/2012	20,000	$	69,325.00
12/5/2012	19,000	$	64,934.70
12/6/2012	10,000	$	35,075.00
12/11/2012	14,200	$	49,132.86
12/13/2012	25,000	$	84,647.50
12/14/2012	25,000	$	82,325.00
12/18/2012	10,000	$	32,075.00
12/31/2012	21,400	$	69,228.32
1/11/2013	1,700	$	5,715.58
3/26/2013	3,576	$	14,346.88
4/12/2013	6,800	$	27,259.00
4/18/2013	4,600	$	18,448.00
5/8/2013	700	$	2,828.50
5/13/2013	1,000	$	4,030.00
5/15/2013	2,729	$	10,954.65
5/30/2013	6,558	$	26,289.79
6/17/2013	445	$	1,807.23
6/18/2013	5,326	$	21,355.63
6/25/2013	2,160	$	8,675.80
6/28/2013	770	$	3,108.85
7/5/2013	1,360	$	5,471.80
7/12/2013	476	$	1,906.38
7/19/2013	140	$	585.70
8/2/2013	300	$	1,201.50

Pope Investments II LLC

Trade Date	Quantity		Cost
3/7/2008	9,523,810	$	10,000,000.00
10/30/2008	2,500	$	2,525.00
11/3/2008	3,000	$	3,030.00
11/10/2008	2,500	$	2,200.00
11/13/2008	200	$	190.00
12/29/2008	149	$	122.18
12/30/2008	143	$	102.96
2/18/2011	5,000	$	40,436.50
2/22/2011	2,800	$	23,445.52
2/23/2011	10,000	$	84,355.00
2/24/2011	900	$	7,272.54
2/25/2011	2,700	$	21,986.37
2/28/2011	10,000	$	83,164.00
3/2/2011	7,580	$	64,104.80
3/3/2011	10,000	$	84,538.00
3/4/2011	1,519	$	12,434.17
6/17/2011	19,800	$	51,901.00
12/6/2011	4,961	$	13,761.02
12/7/2011	2,500	$	6,950.00
12/12/2011	100	$	297.00
3/2/2012	90,000	$	159,325.00
3/16/2012	5,203	$	9,491.34
3/19/2012	843	$	1,559.26
3/20/2012	8,020	$	14,771.37
3/21/2012	3,500	$	6,570.00
3/23/2012	649	$	1,238.63
5/30/2014	33,107	$	108,547.92
6/2/2014	80,500	$	261,906.75
6/3/2014	100,900	$	329,115.62
6/4/2014	65,000	$	208,195.00

EXHIBIT 16

EXHIBIT 16

Annuity & Life Reassurance, Ltd. - China Yida Buys

Trade Date	Quantity	Cost	Price Per Share
12/31/2013	$ 1,360	$ 4,260.88	**$3.13**
12/31/2013	$ 2,300	$ 7,205.90	**$3.13**
12/31/2013	$ 22,722	$ 71,188.22	**$3.13**

Pope Investments II - China Yida Buys

Trade Date	Quantity	Cost	Price Per Share
3/7/2008	9,523,810	$ 10,000,000.00	**$1.05**
10/30/2008	2,500	$ 2,525.00	**$1.01**
11/3/2008	3,000	$ 3,030.00	**$1.01**
11/10/2008	2,500	$ 2,200.00	**$0.88**
11/13/2008	200	$ 190.00	**$0.95**
12/29/2008	149	$ 122.18	**$0.82**
12/30/2008	143	$ 102.96	**$0.72**
2/18/2011	5,000	$ 40,436.50	**$8.09**
2/22/2011	2,800	$ 23,445.52	**$8.37**
2/23/2011	10,000	$ 84,355.00	**$8.44**
2/24/2011	900	$ 7,272.54	**$8.08**
2/25/2011	2,700	$ 21,986.37	**$8.14**
2/28/2011	10,000	$ 83,164.00	**$8.32**
3/2/2011	7,580	$ 64,104.80	**$8.46**
3/3/2011	10,000	$ 84,538.00	**$8.45**
3/4/2011	1,519	$ 12,434.17	**$8.19**
6/17/2011	19,800	$ 51,901.00	**$2.62**
12/6/2011	4,961	$ 13,761.02	**$2.77**
12/7/2011	2,500	$ 6,950.00	**$2.78**
12/12/2011	100	$ 297.00	**$2.97**
3/2/2012	90,000	$ 159,325.00	**$1.77**
3/16/2012	5,203	$ 9,491.34	**$1.82**
3/19/2012	843	$ 1,559.26	**$1.85**
3/20/2012	8,020	$ 14,771.37	**$1.84**
3/21/2012	3,500	$ 6,570.00	**$1.88**
3/23/2012	649	$ 1,238.63	**$1.91**
5/30/2014	33,107	$ 108,547.92	**$3.28**
6/2/2014	80,500	$ 261,906.75	**$3.25**
6/3/2014	100,900	$ 329,115.62	**$3.26**
6/4/2014	65,000	$ 208,195.00	**$3.20**

POPE INVESTMENTS - China Yida Buys

Trade Date	Quantity	Cost	Price Per Share
4/1/2009	10,000	$ 11,200.00	**$1.12**
4/3/2009	4,059	$ 5,461.38	**$1.35**
4/6/2009	1,300	$ 1,963.00	**$1.51**
4/8/2009	4,300	$ 6,928.16	**$1.61**
4/14/2009	6,300	$ 11,275.11	**$1.79**
4/15/2009	550	$ 1,111.00	**$2.02**
4/20/2009	2,108	$ 4,764.08	**$2.26**
4/21/2009	500	$ 1,130.00	**$2.26**
4/22/2009	500	$ 1,135.00	**$2.27**
10/26/2010	500,000	$ 5,000,000.00	**$10.00**
9/17/2012	5,391	$ 2,504.86	**$0.46**
9/24/2012	5,258	$ 2,432.64	**$0.46**
9/25/2012	24,144	$ 11,160.21	**$0.46**
10/1/2012	3,079	$ 1,618.69	**$0.53**
10/2/2012	409	$ 247.95	**$0.61**
10/4/2012	3,098	$ 1,729.21	**$0.56**
11/12/2012	4,100	$ 2,788.40	**$0.68**
11/14/2012	3,800	$ 2,567.20	**$0.68**
11/19/2012	1,620	$ 5,130.11	**$3.17**
11/30/2012	28,900	$ 101,088.30	**$3.50**
12/3/2012	20,000	$ 69,677.00	**$3.48**
12/4/2012	20,000	$ 69,325.00	**$3.47**
12/5/2012	19,000	$ 63,934.70	**$3.36**
12/6/2012	10,000	$ 35,075.00	**$3.51**
12/11/2012	14,200	$ 49,132.86	**$3.46**
12/13/2012	25,000	$ 84,647.50	**$3.39**
12/14/2012	25,000	$ 82,325.00	**$3.29**
12/18/2012	10,000	$ 32,075.00	**$3.21**
12/31/2012	21,400	$ 69,228.32	**$3.23**
1/11/2013	1,700	$ 5,715.58	**$3.36**
3/26/2013	3,576	$ 14,346.88	**$4.01**
4/12/2013	6,800	$ 27,259.00	**$4.01**
4/18/2013	4,600	$ 18,448.00	**$4.01**
5/8/2013	700	$ 2,828.00	**$4.04**
5/13/2013	1,000	$ 4,030.00	**$4.03**
5/15/2013	2,729	$ 10,954.65	**$4.01**
5/30/2013	6,558	$ 26,289.79	**$4.01**
6/17/2013	445	$ 1,807.23	**$4.06**
6/18/2013	5,326	$ 21,355.63	**$4.01**
6/25/2013	2,160	$ 8,675.80	**$4.02**
6/28/2013	770	$ 3,108.85	**$4.04**
7/5/2013	1,360	$ 5,471.80	**$4.02**
7/12/2013	476	$ 1,906.38	**$4.01**
7/19/2013	140	$ 585.70	**$4.18**
8/2/2013	300	$ 1,201.50	**$4.01**

EXHIBIT 17

EXHIBIT 17

Federal Register

Tuesday,
April 24, 2007

Part III

Securities and Exchange Commission

17 CFR Part 230

Covered Securities Pursuant to Section 18 of the Securities Act of 1933; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–8791; File No. S7–18–06]

RIN 3235–AJ73

Covered Securities Pursuant to Section 18 of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is adopting an amendment to a rule under Section 18 of the Securities Act of 1933 ("Securities Act") to designate securities listed, or authorized for listing, on the Nasdaq Capital Market tier of The NASDAQ Stock Market LLC ("Nasdaq") as covered securities for purposes of Section 18 of the Securities Act. Covered securities under Section 18 of the Securities Act are exempt from State law registration requirements. The Commission also is making a correction to the rule text to conform it to the language of Section 18 of the Securities Act.

DATES: *Effective Date:* May 24, 2007.

FOR FURTHER INFORMATION CONTACT: Heather Seidel, Assistant Director, (202) 551–5608, Hong-anh Tran, Special Counsel, (202) 551–5637, or Michou Nguyen, Special Counsel, (202) 551–5634, Division of Market Regulation ("Division"), Commission, 100 F Street, NE., Washington, DC 20549–6628.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1996, Congress amended Section 18 of the Securities Act to exempt from state registration requirements securities listed, or authorized for listing, on the New York Stock Exchange LLC ("NYSE"), the American Stock Exchange LLC ("Amex"), or the National Market System of The NASDAQ Stock Market LLC ("Nasdaq/NGM")[1] (collectively, the "Named Markets"), or any national securities exchange designated by the Commission to have substantially similar listing standards to those markets.[2] More specifically, Section 18(a) of the Securities Act provides that "no law, rule, regulation, or order, or other administrative action of any State * * * requiring, or with respect to, registration or qualification of securities * * * shall directly or indirectly apply to a security that—(A) is a covered security."[3] Covered securities are defined in Section 18(b)(1) of the Securities Act to include those securities listed, or authorized for listing, on the Named Markets, or securities listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule are "substantially similar" to the Named Markets.[4]

Pursuant to Section 18(b)(1)(B) of the Securities Act, the Commission adopted Rule 146.[5] Rule 146(b) lists those national securities exchanges, or segments or tiers thereof, that the Commission has determined to have listing standards substantially similar to those of the Named Markets and thus securities listed on such exchanges are deemed covered securities.[6]

Nasdaq has petitioned the Commission to amend Rule 146(b) to determine that its listing standards for securities listed on the Nasdaq Capital Market ("NCM")[7] are substantially similar to those of the Named Markets and, accordingly, that securities listed pursuant to such listing standards are covered securities for purposes of Section 18(b) of the Securities Act.[8]

On November 22, 2006, the Commission issued a release proposing to amend Rule 146(b) to designate securities listed on the NCM as covered securities for purposes of Section 18(a) of the Securities Act.[9] The Commission received seven comment letters, all expressing overall support for the Nasdaq Petition.[10] In connection with its petition, Nasdaq filed a proposed rule change to amend its quantitative listing standards for NCM securities to make its NCM listing standards substantially similar to the Named Markets.[11] On April 18, 2007, the Commission approved this proposed rule change.[12]

Based on the approved changes to the NCM listing standards and after careful comparison, the Commission concludes that the listing standards of the NCM are substantially similar to the listing standards of the Named Markets. Accordingly, the Commission today is amending Rule 146(b) to designate securities listed, or authorized for listing, on the NCM as covered securities under Section 18(b)(1) of the Securities Act.[13] Amending Rule 146(b) to include securities listed, or authorized for listing, on the NCM as covered securities will exempt those securities from state registration

[1] As of July 1, 2006, the National Market System of The NASDAQ Stock Market LLC is known as the Nasdaq Global Market. *See* Securities Exchange Act Release Nos. 53799 (May 12, 2006), 71 FR 29195 (May 19, 2006) and 54071 (June 29, 2006), 71 FR 38922 (July 10, 2006).

[2] *See* National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416 (October 11, 1996).

[3] 15 U.S.C. 77r(a).

[4] 15 U.S.C. 77r(b)(1)(A) and (B). In addition, securities of the same issuer that are equal in seniority or senior to a security listed on a Named Market or national securities exchange designated by the Commission as having substantially similar listing standards to a Named Market are covered securities for purposes of Section 18 of the Securities Act. 15 U.S.C. 77r(b)(1)(C).

[5] Securities Exchange Act Release No. 39542 (January 13, 1998), 63 FR 3032 (January 21, 1998) (determining that the listing standards of the Chicago Board Options Exchange, Incorporated ("CBOE"), Tier 1 of the Pacific Exchange, Inc. ("PCX") (now known as NYSE Arca, Inc.), and Tier 1 of the Philadelphia Stock Exchange, Inc. ("Phlx") were substantially similar to those of the Named Markets and that securities listed pursuant to those standards would be deemed covered securities for purposes of Section 18 of the Securities Act). In 2004, the Commission amended Rule 146(b) to designate options listed on the International Securities Exchange, Inc. ("ISE") (now known as the International Securities Exchange, LLC) as covered securities for purposes of Section 18(b) of the Securities Act.

[6] 17 CFR 230.146(b).

[7] The Nasdaq Capital Market was previously named the Nasdaq SmallCap Market.

[8] *See* letter from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, to Nancy M. Morris, Secretary, Commission, dated March 1, 2006 (File No. 4—513) ("Nasdaq Petition").

[9] Securities Act Release No. 8754 (November 16, 2006), 71 FR 67762 (November 22, 2006) ("Proposing Release").

[10] *See* letter to Nancy M. Morris, Secretary, Commission, from Alan M. Parness, Vice Chair, State Regulation of Securities Committee of the American Bar Association Section of Business Law ("ABA Committee"), dated April 3, 2006 ("ABA Committee April 3rd Letter"); letter to Nancy M. Morris, Secretary, Commission, from Patricia D. Struck, The North American Securities Administrators Association ("NASAA") President and Wisconsin Securities Administrator, dated March 29, 2006 ("NASAA March 29th Letter"); electronic mail to Robert L.D. Colby, Acting Director, Division, Commission, from Randall Schumann, Legal Counsel, Wisconsin DFI-Division of Securities, NASAA Corporation Finance Section Member, dated June 1, 2006; letter to Nancy M. Morris, Secretary, Commission, from Alan M. Parness, Vice Chair, ABA Committee, dated December 20, 2006 ("ABA Committee December 20th Letter"); letter to Nancy M. Morris, Secretary, Commission, from Joseph P. Borg, NASAA President and Director, Alabama Securities Commission, dated December 21, 2006 ("NASAA December 21st Letter"); letter to Nancy M. Morris, Secretary, Commission, from Joseph P. Borg, NASAA President and Director, Alabama Securities Commission, dated December 21, 2006 ("NASAA Supplemental Letter"); and letter to Nancy M. Morris, Secretary, Commission, from Phillip B. Kennedy, Esq., Gaeta & Eveson, P.A., dated December 19, 2006 ("Kennedy Letter"). In addition, the Commission's Advisory Committee on Smaller Public Companies recommended on April 23, 2006 that the Commission make NCM stocks "covered securities." SEC Advisory Committee on Smaller Public Companies, Final Report, at 97–100 (2006).

[11] *See* Securities Exchange Act Release Nos. 54378 (August 28, 2006) ("Nasdaq Proposed Rule Change"), 71 FR 52351 (September 5, 2006).

[12] Securities Exchange Act Release No. 55642 (April 18, 2007) ("NCM Listing Standard Amendments").

[13] 15 U.S.C. 77r(b)(1).

requirements as set forth under Section 18(a) of the Securities Act.[14]

II. Amendment to Rule 146(b) to Include Nasdaq NCM Securities

Under Section 18(b)(1)(B) of the Securities Act,[15] the Commission has the authority to compare the listing standards of a petitioner with those of the NYSE, Amex, or Nasdaq/NGM. The Commission initially compared Nasdaq's listing standards for all NCM securities with only one of the Named Markets. If the listing standards in a particular category did not meet the standards of that market, the Commission compared the petitioner's standards to the other two Named Markets.[16] In addition, the Commission interpreted the "substantially similar" standard to require listing standards at least as comprehensive as those of the Named Markets.[17] If a petitioner's listing standards are higher than the Named Markets, then the Commission still determined that the petitioner's listing standards are substantially similar to the Named Markets. Finally, the Commission notes that differences in language or approach would not necessarily lead to a determination that the listing standards of the petitioner are not substantially similar to those of a Named Market.

The Commission has reviewed the NCM's listing standards, as amended,[18] and, for the reasons discussed below, believes that the standards are substantially similar to those of the Named Markets. Accordingly, the Commission is amending Rule 146(b) to include securities listed, or authorized for listing, on the NCM. Because the Commission believes Nasdaq's qualitative listing standards for NCM securities are identical to the qualitative listing standards for Nasdaq/NGM securities,[19] the discussion below focuses on the NCM quantitative listing standards.

A. Common Stock

As discussed in the Proposing Release, the Commission preliminarily believed that some, but not all, of the requirements in Nasdaq's then-existing quantitative initial listing standards for common stock listing on the NCM were substantially similar to those of Amex's common stock listing standards. The NCM Listing Standard Amendments modify those NCM initial listing standards for common stock to require an issuer to have:

- Shareholder's equity of $4 million and net income from continuing operations of $750,000 in the most recently completed fiscal year or in two of the last three most recently completed fiscal years, and a market value of publicly held shares of $5 million;
- Shareholder's equity of $4 million, a market value of listed securities of $50 million, and a market value of publicly held shares of $15 million; or
- Shareholder's equity of $5 million, a two-year operating history, and a market value of publicly held shares of $15 million.[20]

In light of these rule changes, the Commission finds the NCM initial listing standards for common stock to be substantially similar to those of Amex.

The Commission finds that the continued listing requirements for common stock listed on the NCM, while not identical, are substantially similar to those of Amex. Amex's delisting criteria are triggered by poor financial condition or operating results of the issuer.[21] Specifically, Amex will consider delisting an equity issue if: (i) Stockholders' equity is less than $2 million and such issuer has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years; (ii) stockholders' equity is less than $4 million and such issuer has sustained losses from continuing operations and/or net losses in three of its four most recent fiscal years; (iii) stockholders' equity is less than $6 million if such issuer has sustained losses from continuing operations and/or net losses in its five most recent fiscal years; or (iv) the issuer has sustained losses which are so substantial in relation to its overall operations or its existing financial resources, or its financial condition has become so impaired that it appears questionable, in the opinion of the Exchange, as to whether such company will be able to continue operations and/or meet its obligations as they mature.[22]

Although Nasdaq's NCM does not have the same continued listing requirements, Nasdaq also looks at the financial condition and operating results of the issuer. Specifically, for continued listing, Nasdaq requires an issuer to have shareholder's equity of at least $2.5 million, market value of listed securities of at least $35 million, or net income of $500,000 from continuing operations in the past fiscal year or two out of its three past fiscal years.[23] Further, Nasdaq requires that the listed issue have a minimum bid price for continued listing of $1 per share.[24] In addition, for continued listing, Nasdaq requires an issuer to have a minimum of 500,000 publicly held shares with a market value of at least $1 million.[25]

The Commission finds that the maintenance criteria for common stock listed on Amex and on the NCM are substantially similar.[26]

B. Secondary Classes of Common Stocks

Only Nasdaq has listing standards for the trading of a secondary class of common stock. A secondary class of common stock is a class of common stock of an issuer that has another class of common stock listed on an exchange. The Commission compared the NCM listing standards for secondary classes of common stock and preferred stocks with the listing standards of the Nasdaq/NGM.

As discussed in the Proposing Release, the Commission preliminarily believed that with respect to the number

[14] 15 U.S.C. 77r(a).

[15] 15 U.S.C. 77r(b)(1)(A).

[16] This approach is consistent with the approach that the Commission has previously taken. *See* Securities Act Release Nos. 7422 (June 9, 1997), 62 FR 32705 (June 17, 1997) and 7494 (January 13, 1998), 63 FR 3032 (January 21, 1998).

[17] Securities Act Release No. 7422, *supra* note 16.

[18] *See* NCM Listing Standard Amendments, *supra*, note 12.

[19] Such qualitative listing standards relate to, among other things, the number of independent directors required, conflicts of interest, composition of the audit committee, executive compensation, shareholder meeting requirements, voting rights, quorum, code of conduct, proxies, shareholder approval of certain corporate actions, and the annual and interim reports requirements. *See* Nasdaq Rule 4350.

[20] *See* NCM Listing Standard Amendments, *supra*, note 12.

[21] *See* generally Sections 1001 through 1006 of the Amex Company Guide.

[22] *See* Section 1003(a) of the Amex Company Guide. Amex also will consider delisting if: (i) An issuer has sold or otherwise disposed of its principal operating assets or has ceased to be an operating company or has discontinued a substantial portion of its operations or business; (ii) if substantial liquidation of the issuer has been made; or (iii) if advice has been received, deemed by the Exchange to be authoritative, that the security is without value, or in the case of a common stock, such stock has been selling for a substantial period of time at a low price. *See* Section 1003(c) and (f)(v) of the Amex Company Guide.

[23] Nasdaq Rule 4310(c)(2)(B)(i)–(iii).

[24] Nasdaq Rule 4310(c)(4). Amex will consider delisting if the price per share is "low." *See* Amex Rule 1003(f)(v).

[25] Nasdaq Rule 4310(c)(7)(A). Amex will consider delisting the common stock of an issuer if the aggregate market value of such publicly held shares is less than $1 million for more than 90 consecutive days, the number of publicly held shares is less than 200,000 shares, or the number of its public stockholders is less than 300. *See* Section 1003(b) of the Amex Company Guide.

[26] As noted above, the Commission has interpreted the substantially similar standard to require listing standards at least as comprehensive as those of the Named Markets, and differences in language or approach of the listing standards are not dispositive.

of round lot holders,[27] bid price,[28] and number of publicly held shares [29] requirements,[30] Nasdaq's initial and continued listing requirements for secondary classes of common stock and preferred stocks listing on the NCM were substantially similar to the listing standards for the Nasdaq/NGM. The Commission did not, however, believe that the initial continued listing requirements for market value of publicly held shares for NCM were substantially similar to Nasdaq/NGM standards.[31]

In the NCM Listing Standard Amendments, Nasdaq increased the NCM listing standards for both preferred and secondary classes of common stock for the market value of publicly held shares to $3.5 million for initial listing and $1 million for continued listing.[32] Nasdaq also increased its initial and continued NCM listing rules for secondary classes of common stock and preferred stock to require that the common stock or common stock equivalent of the issuer either be listed on Nasdaq or be a covered security as defined in Rule 146(b).[33] In light of these revisions to the NCM's initial and continued listing standards for secondary classes of common stock and preferred stocks, the Commission finds that the NCM's rules for initial and continued listing for secondary classes of common stock and preferred stock are substantially similar to Nasdaq/NGM's rules.

C. Convertible Debt

The Commission has compared the NCM listing standards for convertible debt to Amex's listing standards for debt.[34] In the NCM Listing Standards Amendments, Nasdaq added a debt rating requirement similar to a requirement in Amex's listing standards.[35] Specifically, Nasdaq requires that for the initial listing of convertible debt, one of the following conditions must be met: (i) The issuer of the debt security must also have an equity security listed on the Amex, NYSE, or Nasdaq; (ii) an issuer of equity security listed on the Amex, NYSE, or Nasdaq, directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security; (iii) an issuer of equity security listed on the Amex, NYSE, or Nasdaq has guaranteed the debt security; (iv) a nationally recognized securities rating organization (an "NRSRO") has assigned a current rating to the debt security that is no lower than an S&P Corporation "B" rating or equivalent rating by another NRSRO; or (v) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned an investment grade rating to an immediately senior issue or a rating that is no lower than an S&P Corporation "B" rating, or an equivalent rating by another NRSRO, to a *pari passu* or junior issue.[36] The Listing Standards Amendment also requires that current sale information be available in the United States for the underlying security into which a convertible debt issue is convertible. Accordingly, the Commission finds that the NCM's listing standards for convertible debt are substantially similar to those of Amex.

The Commission also finds that the continued listing requirements for convertible debt securities listed on the NCM are substantially similar to Amex's requirements. The NCM listing standards require that the principal amount outstanding be maintained at $5 million.[37] Amex generally will delist a bond if the aggregate market value or the principal amount of the bond publicly held is less than $400,000, or if the issuer is not able to meet its obligations on the listed debt.[38] Although not identical, the Commission believes that both standards are designed to ensure the continued liquidity of the debt security, and thus are substantially similar.

D. Warrants

The Commission compared Nasdaq's NCM listing standards for warrants to the Nasdaq/NGM standards. In the Proposing Release, the Commission stated that it preliminarily believed that the NCM standards were not substantially similar to the Nasdaq/NGM standards. The NCM Listing Standard Amendments, however, increased the required number of warrants that must be outstanding for initial listing on the NCM from 100,000 to 400,000.[39] Though not identical, the Commission believes this initial listing requirement is substantially similar to Nasdaq/NGM requirements that there be 450,000 warrants outstanding for initial listing. The NCM Listing Standard Amendments also added a requirement for initial and continued listing that the security underlying the warrant be listed on Nasdaq or be a covered security as described in Section 18(b).[40] The Commission believes this requirement is substantially similar to the Nasdaq/NGM standard that requires that, for continued listing, the common stock of the issuer must continue to be listed on the Nasdaq/NGM.[41] In light of the changes made by the NCM Listing Standard Amendments, the Commission finds the NCM's listing standards for warrants are substantially similar to those of Nasdaq/NGM.

E. Index Warrants

Index warrants traded on the NCM, must meet the same initial and continuing listing standards as index warrants traded on the Nasdaq/NGM market.[42] Therefore, the Commission finds that the listing standards for index warrants traded on the NCM are substantially similar to the standards applicable to index warrants traded on the Nasdaq/NGM market.

[27] Both Nasdaq NCM and NGM require 100 round lot holders. *See* NASD Rules 4310(c)(6)(B) and 4420(k)(4). Nasdaq/NGM also requires 100 round lot holders for continued listing. Although the NCM requirements previously did not explicitly require a continuing number of round lot holders, the NCM Listing Standard Amendments clarified that the 100 round lot holders requirement also will apply as a continued listing requirement for the NCM preferred and secondary classes of common stock standards. *See* NCM Listing Standard Amendments, *supra* note 12.

[28] While the NCM bid price requirement for initial listing is $4 and the Nasdaq/NGM requirement is $5, the Commission believes that these standards are substantially similar. Both NGM and NCM require a $1 bid price for continued listing. *See* Nasdaq Rules 4310(c)(4), 4420(k)(3), and 4450(h)(3).

[29] Both Nasdaq NCM and NGM require 200,000 publicly held shares for initial listing, and 100,000 publicly held shares for continued listing. *See* Nasdaq Rules 4310(c)(7)(B), 4420(k)(1), and 4450(h)(1).

[30] The Commission notes that these requirements apply to instances when the common stock or common stock equivalent security of the issuer is listed on Nasdaq/NGM, NCM, Global Select Market ("GSM") (the GSM is a segment of the NGM, *see* Securities Exchange Act Release Nos. 53799 and 54071, *supra* note 1), or another national securities exchange. If the common stock or common stock equivalent is not listed on one of these markets then the security must meet the common stock listing requirements for the relevant market (either Nasdaq/NGM or NCM). *See* generally NASD Rules 4310(c)(6)(B) and 4420(k).

[31] *See* Proposing Release, *supra* note 9, at notes 43–44 and accompanying text.

[32] *See* NCM Listing Standard Amendments, *supra* note 12.

[33] *Id.*

[34] *See* generally Nasdaq Rule 4310(c)(5) and Sections 104 and 1003 of the Amex Company Guide.

[35] *See* NCM Listing Standard Amendments, *supra* note 12.

[36] *See* Nasdaq Rule 4310(c)(5)(B).

[37] *Id.*

[38] *See* Section 1003(b)(iv) of the Amex Company Guide. Section 1003(e) of the Amex Company Guide states that convertible bonds will be reviewed when the underlying security is delisted and will be delisted when the underlying security is no longer the subject of real-time reporting in the United States. The Commission does not believe that this is material because although Nasdaq does not have an identical rule, it does have the discretion to delist beyond its standards.

[39] *See* NCM Listing Standard Amendments, *supra* note 12.

[40] *Id.*

[41] *See* Nasdaq Rule 4450(d).

[42] *See* generally Nasdaq Rule 4310(c)(9)(C).

F. Units

The NCM, Amex, and Nasdaq/NGM all evaluate the initial and continued listing of a unit by looking to its components.[43] If all of the components of a unit individually meet the standards for listing, then the unit would meet the standards for listing.[44] In light of the NCM Listing Standard Amendments, which increase the listing requirements for the different categories of securities discussed above that could make up the components of a unit, the Commission finds that the NCM listing standards for units are substantially similar to both Amex and Nasdaq/NGM listing standards.[45]

III. Other Changes to Rule 146(b)

A. Clarifying Changes in Response to Comments

In response to comments received from the ABA Committee and NASAA, the Commission is making a minor amendment to Rule 146(b) to include securities "authorized for listing" on a market named in Rule 146(b).

NASAA and the ABA Committee expressed concern regarding a discrepancy between the language of Section 18 under the Securities Act and Rule 146(b) thereunder. Section 18 defines covered securities as securities "listed, or authorized for listing" on the Named Markets, or the other exchanges that have listing standards that the Commission has deemed to be substantially similar to the Named Markets. Rule 146(b), however, deems as "covered securities" only securities listed, not those that are "authorized for listing," pursuant to exchange rules that the Commission has found to be substantially similar to the Named Markets. NASAA and the ABA Committee expressed concern that some issuers that are authorized for listing but not yet listed on an exchange identified in Rule 146(b) would not clearly be exempt from state qualification or registration requirements. They recommend that the Commission clarify the language in Rule 146(b) to conform it to the language of Section 18(b)(1)(B) of the Securities Act.[46] The Commission believes that this clarifying change to Rule 146(b) is consistent with Congressional intent, as well as the Commission's intent, is appropriate, and addresses the commenters' concerns.[47]

Another commenter expressed concern about a perceived ambiguity in Rule 146(b)(2). Rule 146(b)(2) conditions the designation of securities on the exchanges specified under Rule 146(b)(1) as "covered securities" as long as their listing standards continue to be substantially similar to those of the Named Markets. The commenter believes that it is not clear who makes this determination and recommends that the phrase "as determined by the Commission" should be added to the language of Rule 146(b)(2).[48] The Commission believes that this change is unnecessary because Section 18 clearly states that "covered securities" are those the Commission determines are substantially similar to the Named Markets. Similarly, Rule 146 specifies that it is the Commission that has found that listed exchanges, or segments thereof, have listing standards substantially similar to those of the Named Markets. The Commission also notes that since this rule has been in effect, the problem described by the commenter has not occurred and does not believe that further amendment to the language of the rule is required at this time.

B. Changes to Exchanges' Names

The Commission is amending Rule 146(b), as proposed, to reflect the following name changes:

- Sections (b)(1) and (b)(2) of Rule 146 use the term "Nasdaq/NMS" to refer to the National Market System of The NASDAQ Stock Market LLC. As noted above, on July 1, 2006, what was the National Market System of The NASDAQ Stock Market LLC became known as the Nasdaq Global Market.[49] The Commission is making a conforming change to Rule 146(b).
- Rule 146(b)(1)(i) refers to the Pacific Exchange Incorporated. In April 2006, the Pacific Exchange, Incorporated was renamed NYSE Arca, Inc.[50] The Commission is making a conforming change to Rule 146(b).
- Rule 146(b)(1)(iv) refers to the International Securities Exchange, Incorporated. In September 2006, the International Securities Exchange, Incorporated was renamed the International Securities Exchange, LLC. The Commission is making a conforming change to Rule 146(b).
- Finally, the Commission is amending paragraph (1)(ii) of Rule 146(b) to reflect the legal name of the Philadelphia Stock Exchange, Inc.[51]

IV. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 does not apply because the proposed amendment to Rule 146(b) does not impose recordkeeping or information collection requirements or other collection of information, which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

V. Cost-Benefit Analysis

Congress amended Section 18 of the Securities Act to exempt covered securities from state registration requirements. These securities are listed, or authorized for listing, on the Named Markets or any other national securities exchange determined by the Commission to have substantially similar listing standards to the Named Markets.[52] Consistent with statutory authority, the Commission has determined that the listing standards for securities listed, or authorized for listing, on the NCM are substantially similar to those of either the Amex or Nasdaq/NGM. Securities listed, or authorized for listing, on the NCM therefore would be covered securities subject only to federal regulation.

By exempting securities listed, or authorized for listing, on the NCM from state law registration requirements, the Commission expects that the listing process for those securities will become easier as one layer of regulation is eliminated. Moreover, the Commission also expects adoption of the rule will reduce the administrative burden the issuers of covered securities face inasmuch as compliance with state blue

[43] A unit is a type of security consisting of two or more different types of securities (*e.g.*, a combination of common stocks and warrants). *See* Securities Exchange Act Release No. 48464 (September 9, 2003), 68 FR 54250 (September 16, 2003).

[44] *See* generally Section 101(g) of the Amex Company Guide and Nasdaq Rules 4310(c)(10) and 4420(h)(1)(a)–(c).

[45] *See* NCM Listing Standard Amendments, *supra* note 12.

[46] *See* ABA Committee April 3rd Letter; ABA Committee December 20th Letter; and NASAA Supplemental Letter, *supra* note 10.

[47] The Administrative Procedure Act ("APA") generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register**. The APA's notice and comment requirement does not apply, however, if the agency "for good cause finds * * * that notice and public procedure are impracticable, unnecessary, or contrary to the public interest." Sec. 5. U.S.C. Section 553(b)(3)(B). The Commission finds good cause to include the language "authorized for listing" to the rule because prior notice is unnecessary. The change does not alter the substance of the rule and incorporates language from the statute.

[48] *See* Kennedy Letter, supra note 10.

[49] *See* Securities Exchange Act Release Nos. 53799 and 54071, *supra* note 1.

[50] *See* Securities Exchange Act Release No. 53615 (April 7, 2006), 71 FR 19226 (April 13, 2006).

[51] In the Proposing Release, the Nasdaq Global Market and the Nasdaq Capital Market were inadvertently referred to as the Nasdaq National Global Market and the Nasdaq National Capital Market. Those typographical errors are corrected in this adopting release.

[52] 15 U.S.C. 77r(b)(1)(B).

sky law requirements is preempted.[53] The Commission solicited comments concerning the costs and benefits associated with the proposal and received two comments. The commenters believe that the proposed amendments to Rule 146(b) to provide "covered securities" status for securities authorized for listing, or approved for listing on the NCM, should reduce substantial costs for investors, given those securities would be exempted from state law registration requirements.[54]

The Commission also believes that the amendment to Rule 146(b) will permit Nasdaq to compete with other markets whose listed securities are exempt from state law registration requirements for new securities products and listings. This result has the potential to enhance competition and, potentially, liquidity, thus benefiting market participants and the public. The Commission does not believe that there are any significant costs to investors associated with the preemption of state registration requirements for securities listed, or authorized for listing, on the NCM. The Commission notes that there may be some cost to investors through the loss of benefits of state registration and oversight, although the cost is difficult to quantify. Furthermore, the Commission believes that Congress contemplated these costs to the economic benefits of exempting covered securities from state regulation.

VI. Consideration of Promotion of Efficiency, Competition, and Capital Formation

As required under the Securities Act,[55] the Commission considered the rule's impact on efficiency, competition, and capital formation. National securities exchanges compete for the listing of securities. Thus, the Commission believes that amending Rule 146(b) to designate securities listed, or authorized for listing, on the NCM as covered securities will offer potential benefits for investors because it would facilitate the ability of Nasdaq to compete for listings, which will potentially increase competition and enhance the overall liquidity, and thus the efficiency of the U.S. securities markets. The Commission also believes that the rule will serve to reduce the cost of raising capital because it will streamline the registration process for issuers listing on the NCM. In addition, the Commission believes that the rule amendment, consistent with Congressional action, is designed to promote efficiency by removing a layer of duplicative regulation. The Commission solicited comments on the amendment's effect on competition, efficiency, and capital formation. Commenters generally believed that this proposal would improve efficiency and facilitate capital formation by eliminating state registration for issuers seeking to list their securities on the NCM.[56] The Commission also believes that the amendment to Rule 146(b) will permit Nasdaq to compete with other markets whose securities are exempt from state law registration requirements for new securities products and listings. Finally, the amendment to Rule 146(b) will not impair efficiency, competition, and capital formation because it will impose no recordkeeping or compliance burdens, but will provide a limited purpose exemption under the federal securities laws. Thus, the Commission concludes that the amendment to Rule 146(b) would promote efficiency, competition, and capital formation.

VII. Regulatory Flexibility Act Certification

The Commission has certified, pursuant to Section 605(b) of the Regulatory Flexibility Act,[57] that the amendment to Rule 146 will not have a significant economic impact on a substantial number of small entities. This certification was incorporated into the Proposing Release. The Commission solicited comments as to the nature of any impact on small entities, and generally on whether the amendment to Rule 146(b) could have an effect that has not been considered. No comments were received.

VIII. Statutory Authority

The Commission is amending Rule 146 pursuant to the Securities Act of 1933,[58] particularly Sections 18(b)(1)(B) and 19(a).[59]

Text of the Rule

List of Subjects in 17 CFR Part 230

Securities.

[53] Several commenters also expect this outcome. *See* ABA Committee April 3rd Letter; ABA Committee December 20th Letter; and Kennedy Letter, *supra* note 10.

[54] *See* ABA Committee December 20th Letter and Kennedy Letter, *supra* note 10.

[55] 15 U.S.C. 77b(b).

[56] *See* ABA Committee April 3rd Letter; ABA Committee December 20th Letter; and Kennedy Letter, *supra* note 10.

[57] 5 U.S.C. 605(b).

[58] 15 U.S.C. 77a *et seq.*

[59] 15 U.S.C. 77r(b)(1)(B) and 77s(a).

■ For the reasons set forth in the preamble, Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The general authority citation for part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

■ 2. Section 230.146 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 230.146 Rules under Section 18 of the Act.

* * * * *

(b) * * *

(1) For purposes of Section 18(b) of the Act (15 U.S.C. 77r), the Commission finds that the following national securities exchanges, or segments or tiers thereof, have listing standards that are substantially similar to those of the New York Stock Exchange ("NYSE"), the American Stock Exchange ("Amex"), or the National Market System of the Nasdaq Stock Market ("Nasdaq/NGM"), and that securities listed, or authorized for listing, on such exchanges shall be deemed covered securities:

(i) Tier I of the NYSE Arca, Inc.;

(ii) Tier I of the Philadelphia Stock Exchange, Inc.;

(iii) The Chicago Board Options Exchange, Incorporated;

(iv) Options listed on the International Securities Exchange, LLC; and

(v) The Nasdaq Capital Market.

(2) The designation of securities in paragraphs (b)(1)(i) through (v) of this section as covered securities is conditioned on such exchanges' listing standards (or segments or tiers thereof) continuing to be substantially similar to those of the NYSE, Amex, or Nasdaq/NGM.

Dated: April 18, 2007.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

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DISTRICT COURT

CLARK COUNTY, NEVADA

CHINA YIDA HOLDING, CO., a Nevada corporation,

Petitioner,

v.

POPE INVESTMENTS, LLC, a Delaware limited liability company; POPE INVESTMENTS II, LLC, a Delaware limited liability company; and ANNUITY & LIFE REASSURANCE, LTD., an unknown limited company;

Respondents.

Case No. A-16-746732-P

Dept. No. XXVII

PETITIONER CHINA YIDA HOLDING, CO.'S OFFER OF JUDGMENT

TO: Respondents Pope Investments, LLC, Pope Investments II, LLC and Annuity & Life Reassurance, Ltd.

AND TO: Respondents' counsel, Peter L. Chasey, Chasey Law Offices.

Pursuant to NRCP 68, Petitioner China Yida Holding, Co. (CYH), hereby offers to allow judgment to be entered in this case collectively in favor of Respondents Pope Investments, LLC, Pope Investments II, LLC and Annuity & Life Reassurance, Ltd., and against CYH, in the total amount of TEN THOUSAND DOLLARS ($10,000.00), inclusive

of all prejudgment interest, attorney's fees and costs to resolve all claims in this action between these parties. This Offer of Judgment is made by CYH and is intended to be a lump sum offer. This Offer of Judgment is made for the purpose specified in NRCP 68, and is not to be construed as an admission of liability or a waiver of any kind whatsoever by CYH.

This Offer of Judgment must be accepted by Respondents in writing within fourteen (14) days after the date of service of the Offer of Judgment or the Offer of Judgment will lapse in accordance with the provisions of NRCP 68, and evidence thereof is not admissible except in a proceeding to determine costs and attorneys' fees. If this Offer is not accepted, CYH will seek to enforce all of their rights and remedies arising out of such failure to accept as provided in NRCP 68.

DATED this 13th day of June, 2019.

HOLLAND & HART LLP

/s/ J. Robert Smith
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2019, a true and correct copy of the foregoing **PETITIONER CHINA YIDA HOLDING, CO.'S OFFER OF JUDGMENT** was served by the following method(s):

☑ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and serving all parties electronically in accordance with the E-service list to the following:

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❒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

❒ Email: by electronically delivering a copy via email to the following e-mail address:

❒ Facsimile: by faxing a copy to the following numbers referenced below:

/s/ Yalonda Dekle
An Employee of HOLLAND & HART LLP

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DISTRICT COURT

CLARK COUNTY, NEVADA

CHINA YIDA HOLDING CO., a Nevada corporation, Petitioner, vs. POPE INVESTMENTS, LLC, a Delaware limited liability company; POPE INVESTMENTS II, LLC, a Delaware limited liability company; and ANNUITY & LIFE REASSURANCE, LTD., an unknown limited company; Respondents.	) CASE NO.: A-16-746732-P) DEPT NO.: XXVII))) **RESPONDENTS' OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**)))) **Date of Hearing: July 18, 2019**) **Time of Hearing: 10:30 a.m.**))

Respondents Pope Investments, LLC, Pope Investments II, LLC, and Annuity & Life Reassurance, Ltd. ("Pope") requests this Court deny summary judgment to Petitioner China Yida Holding Co.'s ("CYH") and maintain this matter for bench trial on the Court's August 26, 2019 trial stack.

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MEMORANDUM OF POINTS & AUTHORITIES

I.

INTRODUCTION

> At common law, unanimous shareholder consent was a prerequisite to fundamental changes in the corporation. This made it possible for an arbitrary minority to establish a nuisance value for its shares by refusal to cooperate. To meet the situation, legislatures authorized the making of changes by majority vote. This, however, opened the door to victimization of the minority. To solve the dilemma, statutes permitting a dissenting minority to recover the appraised value of its shares, were widely adopted.[1]

Nevada's dissenter's rights statutes were "designed to facilitate business mergers, while protecting minority shareholders from being unfairly impacted by the majority shareholders' decision to approve a merger. Thus, minority stockholders who dissent from a corporate action such as a merger are entitled to receive payment for the fair value of their shares." [2]

> [I]n a stockholder's right-to-dissent appraisal action, both the dissenting stockholder and the corporation have the burden of proving their respective valuation conclusions by a preponderance of the evidence in the district court. Final responsibility for determining fair value, however, lies with the court, which must make its own independent value determination.[3]

Dissenter's rights "requirements ... are to be liberally construed for the protection of objecting shareholders..."[4] CYH presents an antiquated and illogical attack on Pope's right to dissent which would up-end the fundamental and equitable purpose of Nevada's dissenter's rights statutes.

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[1] *Voeller v. Neilston Warehouse Co.*, 311 U.S. 531, 535 n.6, 61 S. Ct. 376, 377 (1941) (*citing* SEC Report on the Work of Protective and Reorganization Committees, Part VII, pp. 557, 590).

[2] *Am. Ethanol, Inc. v. Cordillera Fund, Ltd. P'ship*, 127 Nev. 147, 151-52, 252 P.3d 663, 665-66 (2011) (*citing Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 10, 62 P.3d 720, 726 (2003) *and* NRS 92A.380(1)(a)).

[3] *Am. Ethanol*, 127 Nev. 147, 154-55, 252 P.3d 663, 667.

[4] *Raab v. Villager Indus., Inc.*, 355 A.2d 888, 891 (Del. 1976); *see also Brown v. Kinross Gold USA, Inc.*, 531 F.Supp 1342, 1347 (D.Nev 1997) ("Nevada Supreme Court frequently looks to the Delaware Supreme Court and Delaware Courts of Chancery as persuasive authority on questions of corporate law.").

II.

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when undisputed evidence demonstrates the moving party is entitled to judgment as a matter of law. *See* NRCP 56 (c). Substantive law determines which facts are material on summary judgment. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005) (*citing Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 91 L. Ed. 2d 202, 106 S. Ct. 2505 (1986)). Based on the material facts before this Court and the provisions of NRS Chapter 92A, Pope is entitled to this court's determination of fair value for its shares.

III.

STATEMENT OF MATERIAL FACTS

Pope and CYH agree that CYH has been a Nevada corporation since it filed Articles of Incorporation with the Nevada Secretary of State on November 12, 2012.[5]

Pope and CYH agree that CYH common stock was traded on the NASDAQ Capital Markets from 2008 until it was removed on July 8, 2016.[6] Pope does not dispute the closing stock prices referenced by CYH.[7] Prior to the merger, CYH lacked effective internal controls and procedures[8], and publicly disclosed that CYH's absence of effective internal controls might cause a lack of investor confidence and could cause a significant drop in the trading price of CYH common stock.[9]

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[5] *See* Motion for Summary Judgment ("MSJ"), p.3, line 13 (*citing* Articles of Incorporation, November 12, 2012 (Exhibit 1)).

[6] *See* MSJ, p.3, lines 14-18 (*citing* Declaration of Minhua Chen, ¶ 3 *and* Form 10-K, March 30, 2016 (Exhibit 2), at p.1 *and* 27); *see also* MSJ, p.5, lines 22-24 (*citing* Form 25, July 8, 2016 (Exhibit 11)).

[7] *See* MSJ, p.3, lines 21 to p.4, line 10 (*citing* CNYD Price Chart (Exhibit 5)) *and* Schedule 14A, May 25, 2016 (Exhibit 6), at p.64).

[8] *See* Form 10-K (Exhibit 2), p.21, 8th ¶ (CYH 000021).

[9] *See id.*, p.21, 7th ¶ (CYH 000021).

Pope and CYH agree that CYH first announced a merger with China Yida Acquisition Co., Inc. in March 2016.[10] A month later, on April 12, 2016, CYH entered the Amended and Restated Agreement and Plan of Merger (hereinafter "Plan of Merger")[11] which was ultimately approved by a majority of the shareholders and adopted by resolution of the CYH Board of Directors.[12] CYH filed the Plan of Merger with the SEC as an exhibit to a Form 8-K filed on April 13, 2016.[13]

The Plan of Merger provides that:

> China Yida Holding Acquisition Co., Inc. was completely owned by Mr. Minhua Chen and Ms. Yanling Fan and was formed solely to complete the merger with CYH.[14]
>
> China Yida Holding Acquisition Co., Inc. would be merged with CYH, and CYH would continue as the surviving company after the merger.[15]
>
> Shares of CYH common stock, *except* Excluded Shares[16], would be canceled and converted into the right to receive $3.32 in cash.[17]
>
> Excluded shares were shares owned by the Principal Shareholders, Minhua Chen and Yanling Fan[18], and shares owned by Dissenting Shareholders.[19]
>
> Shares of common stock owned by Dissenting Shareholders were entitled to payment of fair value for their shares as determined per NRS Chapter 92A.[20]

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[10] *See* MSJ, p.3, lines 19-20 (*citing* Press Release, March 10, 2016 (Exhibit 3) *and* Form 8-K, March 8, 2016 (Exhibit 4)).
[11] *See* MSJ, p.4, line 11 (*citing* Form 8-K, April 12, 2016 (Exhibit 7)).
[12] *See* Meeting Minutes, June 28, 2016 (Exhibit 10).
[13] *See* MSJ, p.4, lines 12-15 (*citing* Form 8-K (Exhibit 7)).
[14] *See* Plan of Merger, April 12, 2016 (Exhibit 8), pp.29-30, §§ 4.09 and 4.10 (CYH 001308-CYH 001309).
[15] *See* MSJ, p.4, lines 16-22 (*citing* Plan of Merger (Exhibit 8)).
[16] *See* Plan of Merger (Exhibit 8) (CYH 001282) ("Excluded Shares").
[17] *See* MSJ, p.4, lines 22-26 (*citing* Plan of Merger (Exhibit 8)).
[18] *See* Plan of Merger (Exhibit 8) (CYH 001284) ("Principal Shareholders").
[19] *See id.* at p.9 (CYH 001282) ("Excluded Shares").
[20] *See id.* at p.17, §2.7(a)(iii) (CYH 001290) *and id.* at p.18, §2.7(c) (CYH 001291).

> Shares of common stock owned by the Principal Shareholders would remain in effect and would be converted to the only shares in the surviving company[21] which would own the assets and liabilities of CYH.[22]

At the time of the merger, Mr. Minhua Chen, the President, Chairman, and Chief Executive Officer of CYH owned 1,145,196 shares of CYH's issued and outstanding common stock.[23] His wife, Ms. Yanling Fan, the Chief Operating Officer and a Director of CYH, owned another 1,122,396 shares of CYH common stock.[24] Together, Mr. Chen and Ms. Fan controlled 2,267,592 or 57.84% of the 3,914,580 of the issued and outstanding shares of CYH common stock.[25]

At the time of the merger, Pope collectively owned 924,515 shares of CYH common stock.[26]

On May 25, 2016, CYH filed a Schedule 14A with the SEC giving notice of a stockholders' meeting to approve the Plan of Merger; attached to that Schedule 14A was an opinion by Roth Capital that the buy-out price of $3.32 per share was fair from a financial point of view.[27] Primary support for Roth's opinion were financial statements prepared by CYH[28], which CYH has admitted are unreliable,[29] and financial projections prepared by CYH management[30], with a stated conflict of interest with the other CYH shareholders.[31]

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[21] *See* Plan of Merger (Exhibit 8), p.17, §2.7(a)(iv) (CYH 001290).
[22] *See id.* at p.12, §2.4 (CYH 001289).
[23] *See* Schedule 14A (Exhibit 6), p.3, 1st ¶ (CYH 000128) *and* p.71 (CYH 000196).
[24] *See id.*, at p.3 (CYH 000128) *and* p.71 (CYH 000196).
[25] *See id.*, at p.3 (CYH 000128) *and* p.71 (CYH 000196).
[26] *See id.*, at p.71 (CYH 000196)..
[27] *See* MSJ, p.5, lines 1-7 (*citing* Schedule 14A (Exhibit 6), at p.4 *and* p.28, Roth Capital correspondence, at Annex B-2 to B-4 (CYH 000253 - CYH 000255), *and* Chen Decl., ¶¶ 7-8).
[28] *See* Roth correspondence (Exhibit 6), at Annex B-2, 1st and 2nd bullet points (CYH 000253).
[29] *See* Form 10-K (Exhibit 2), p.21, 7th ¶ *and* 8th ¶ (CYH 000021) ("effective internal controls, particularly those related to revenue recognition, are necessary for [CYH] to produce reliable financial reports and are important to help prevent financial fraud...[¶] We have determined that our internal controls and procedures are not effective due to the lack of U.S. GAAP experience from our management").
[30] *See* Schedule 14A (Exhibit 6), at Annex B-2, 3rd bullet point (CYH 000253).
[31] *See* Schedule 14A (Exhibit 6), p.3, 1st ¶ (CYH 000128).

In CYH's notice of meeting to approve the Plan of Merger, CYH informed its shareholders that:

> "You have a statutory right to dissent from the Merger and demand payment of the fair value of your shares of Company Common Stock as determined in a judicial appraisal proceeding in accordance with [NRS Chapter 92A]."[32]

On June 14, 2016, pursuant to NRS 92A.420, Pope gave CYH Notice of Intent Demand Payment of Fair Value.[33]

On June 28, 2016, CYH held a special meeting of shareholders;[34] the Principal Shareholders voted in favor of the adopting the Plan of Merger and the Board of Directors resolved to approve the Plan of Merger (which included provisions expressly providing shareholders with the right to dissent).[35]

On July 25, 2016, pursuant to NRS 92A.440, Pope Demanded Payment of Fair Value.[36]

On or about August 30, 2016, pursuant to NRS 92A.460, CYH paid Pope $3.32 per share (plus interest) for Pope's 924,515 shares.[37]

On September 21, 2016, pursuant to NRS 92A.480, Pope gave CYH its Estimate of Fair Value and Demand for Payment.[38] Pope disagrees with CYH's description of Pope's Estimate of Fair Value as remarkable or inexplicable.[39] At the time of the merger, CYH's assets primarily consisted of real property rights and tourist resorts located entirely within the People's Republic of China.[40] Based on

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[32] *See* Schedule 14A (Exhibit 6), p.16, 2nd ¶ (CYH 000141).
[33] *See* MSJ, p.5, lines 16-18 (*citing* Pope's Notices of Intent to Demand Payment (Exhibit 9)).
[34] *See* MSJ, p.5, lines 8-15 (*citing* Schedule 14A (Exhibit 6), p.4 (CYH 000129), *and* Chen Decl. ¶¶ 10-11).
[35] *See* MSJ, p.5, lines 19-21 (*citing* Meeting Minutes, June 28, 2016 (Exhibit 10), *and* Chen Decl. ¶ 12).
[36] See MSJ, p.5, line 25 to p.6, line 3 (*citing* Pope's Demand for Payment (Exhibit 12)).
[37] See MSJ, p.6, lines 4-8 (*citing* Correspondence to Pope, August 30, 2016 (Exhibit 13), *and* Chen Decl. ¶ 13).
[38] *See* MSJ, p.6, lines 9-14 (*citing* Pope's Estimate of Fair Value, September 21, 2016 (Exhibit 14)).
[39] *See* MSJ, p.6, line 10.
[40] *See* Form 10-K, March 30, 2016 (Exhibit 2), p.4, "CORPORATE OVERVIEW".

professional appraisals of CYH's major resort properties, Pope used a customary asset valuation methodology in compliance with NRS 92A.320 to estimate the fair value of Pope's 924,515 shares.[41]

Pope disagrees with CYH's comparison of the public trading price of CYH stock at the time of the merger with the price of Pope's initial purchase of shares in 2008. When Pope purchased 9,523,810 shares of common stock for $10,000,000 for a per share price of $1.05.[42] On June 16, 2009, CYH underwent a 4-for-1 reverse stock split[43] and on November 19, 2012, CYH effected a 5-to-1 reverse stock split.[44] Accounting for the 20-fold reduction in the number of shares since Pope's initial purchase in 2008, Pope bought into CYH in 2008 at the adjusted price of $21.00 per share.

On November 15, 2016, CYH commenced this dissenter's action pursuant to NRS 92A.490 seeking a determination of fair value for Pope's 924,515 shares of CYH common stock.[45]

IV.

ARGUMENT

A. The Right to Dissent from a Merger is Fundamentally Necessary to Avoid Oppression of Minority Shareholders

Nevada's dissenter's rights statutes are intended to "protect[] minority shareholders from being unfairly impacted by the majority shareholders' decision to approve a merger." [46] Dissenter's rights "requirements ... are to be liberally construed for the protection of objecting shareholders..."[47]

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[41] *See* MSJ, p.6, lines 11-14 (*citing* Pope's Estimate of Fair Value (Exhibit 14)).
[42] *See* Pope's Buy/Sell Activity, p.2 (Exhibit 15) (Pope 13202).
[43] *See* Form 8-K, June 30, 2019, p.2, 2nd ¶ (attached here as Exhibit A).
[44] *See* Form 10-K (Exhibit 2), p.4, 4th ¶ (CYH 000004).
[45] *See* MSJ, p.6, lines 17-20.
[46] *Am. Ethanol, Inc.*, 127 Nev. 147, 151-52, 252 P.3d 663, 665-66 (*citing Cohen*, 119 Nev. 1, 10, 62 P.3d 720, 726 *and* NRS 92A.380(1)(a)).
[47] *Raab*, 355 A.2d 888, 891 (Del. 1976).

CYH presents a strained construction of NRS 92A.390(1) that would ignore the stated purpose of Nevada dissenter's rights statutes and further expose Pope to the heavy handed, unfair freeze-out merger by the Principal Shareholders.

B. The Terms of the Approved Plan of Merger Expressly Provided Shareholders with Dissenter's Rights pursuant to NRS Chapter 92A

NRS Chapter 92A regulates mergers by and between Nevada corporations.[48] Plans of merger must be in writing[49] and must set forth all terms and conditions of the merger.[50]

Before a plan of merger can be implemented, the board of directors must submit the plan of merger to the shareholders and give notice of a meeting to approve the plan for approval by the shareholders.[51] Notice of the meeting to approve the plan of merger "must contain or be accompanied by a copy or summary of the plan."[52] A majority of shares must then approve the plan of merger at the stockholder's meeting.[53]

On May 25, 2016, CYH gave notice of the special meeting to approve the Plan of Merger.[54] CYH's notice of meeting included a summary of[55] and a full copy of the Plan of Merger.[56]

The terms and conditions of the Plan of Merger submitted to the shareholders for approval expressly provided:

> "Each Dissenting Share that is issued and outstanding immediately prior to the Effective Time shall be cancelled and cease to exist, in consideration for the right to receive the fair value of such Dissenting Share ..."[57]

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[48] NRS 92A.100.
[49] NRS 92A.100(4).
[50] NRS 92A.100(2)(c).
[51] NRS 92A.120(2)(a).
[52] NRS 92A.120(4).
[53] NRS 92A.120(2)(b).
[54] *See* Schedule 14A (Exhibit 6), pp.2-5 (CYH 000127 – CYH 000130).
[55] *See id.*, pp.18-22 (CYH 000143 – CYH 000147), *and* pp.24-70 (CYH 000149 – CYH 000195).
[56] *See id.*, pp.91-126 (CYH 000216 – CYH 000251); *see also generally* Plan of Merger (Exhibit 8).
[57] *See* Schedule 14A (Exhibit 6), p.99, § 2.7(a)(iii) (CYH 000224).

> "Notwithstanding anything in this Agreement to the contrary, any Company Shares that are issued and outstanding immediately prior to the Effective Time and are held by a Company Shareholder (each, a "Dissenting Shareholder") who has validly exercised and not lost its rights to dissent from the Merger pursuant to the NRS (collectively, the "Dissenting Shares") shall not be converted into or exchangeable for or represent the right to receive the Per Share Merger Consideration (except as provided in this Section 2.7(c)), and shall entitle such Dissenting Shareholder only to payment of the fair value of such Dissenting Shares as determined in accordance with the NRS..."[58]

The Plan of Merger submitted to the shareholders contains terms and conditions expressly providing shareholders with the right to dissent and obtain fair value in a proceeding such as the one now before this Court.

CYH's summary also repeatedly confirmed CYH shareholders had a right to dissent:

> "Shares with respect to which dissenters' rights have been properly exercised and not withdrawn or lost will be cancelled in consideration for the right to receive the fair value of such dissenting shares in accordance with the Nevada Revised Statutes."[59]
>
> "You have a statutory right to dissent from the Merger and demand payment of the fair value of your shares of Company Common Stock as determined in a judicial appraisal proceeding in accordance with Chapter 92A (Section 300 through 500 inclusive) of the NRS."[60]
>
> Q: Am I entitled to exercise dissenters' or appraisal rights instead of receiving the Merger Consideration for my shares of Company Common Stock?
>
> A: Yes, Nevada law provides that you may dissent from the disposal of assets....[61]

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[58] *See id.*, pp.99-100, § 2.7(c) (CYH 000224-CYH 000225).
[59] *See* Schedule 14A (Exhibit 6), p.2, last sentence in 3rd ¶ (CYH 000127); *see also id.*, p.11, last sentence of 2nd ¶ (CYH 000136).
[60] *See id.*, p.16 2nd ¶ (CYH 000141).
[61] *See id.*, p.20, 1st Q&A (CYH 000145).

> "...Shareholders of the Company are entitled to exercise dissenters' rights and demand fair value for their shares of Company Common Stock as determined by a Nevada state district court..."[62]

CYH's notice of meeting also included an Annex E titled "Nevada Rights of Dissenting Owners" consisting of a full copy of NRS 92A.300 through NRS 92A.500.[63]

At the stockholders meeting in China on June 28, 2016, the Principal Shareholders voted in favor of the Plan of Merger, and the Board of Directors resolved to authorize, approve, and adopt the Plan of Merger.[64] The Plan of Merger adopted and approved by resolution of the Board of Directors expressly provides shareholders with the right to dissent and obtain fair value as determined by this District Court pursuant to NRS Chapter 92A.[65]

C. Pope Had The Right to Dissent From The Plan of Merger and Has The Right to Payment Of The Judicially Determined Fair Value Of Its Shares.

Pursuant to the express terms of the Plan of Merger and NRS 92A.380, Pope was "entitled to dissent from [the Plan of Merger], and obtain payment of the fair value of [Pope]'s shares..."[66]

CYH moves for summary judgement based on NRS 92A.390(1) which provides in full:

> 1. There is no right of dissent with respect to a plan of merger, conversion or exchange in favor of stockholders of any class or series which is:
>
> (a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended;
>
> (b) Traded in an organized market and has at least 2,000 stockholders and a market value of at least

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[62] *See id.*, p.32 8th ¶ (CYH 000157); *see also id.*, p.47, 1st ¶ (CYH 000172).
[63] *See id.*, pp.136-143 (CYH 000261 – CYH 000268).
[64] *See* Meeting Minutes, ¶ 5(i) (Exhibit 10).
[65] *Compare* Meeting Minutes, ¶ 5(i) (Exhibit 10) *with* Plan of Merger (Exhibit 8), p.17, § 2.7(a)(iii) (CYH 001290) *and* pp.17-18, § 2.7(c) (CYH 001290-CYH 001291).
[66] NRS 92A.380(1)(a)(1).

> $20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or
>
> (c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, and which may be redeemed at the option of the holder at net asset value,
>
> ↪ **unless the articles of incorporation of the corporation issuing the class or series or the resolution of the board of directors approving the plan of merger, conversion or exchange expressly provide otherwise.**[67]

CYH moves for summary judgment based on subsection (1)(a), but the above-bolded, last sentence in NRS 92A.390(1) provides that, regardless of subsections (a), (b), or (c), if the Board of Directors resolves to approve a plan of merger that expressly provided shareholders with the right to dissent – as happened in this case on June 28, 2016[68] – then shareholders' dissenter's rights are not adversely affected.

The CYH Board of Directors recommended and approved a Plan of Merger that expressly provided the right to dissent from the merger and obtain payment of a judicially determined fair value for their shares.[69] The language of NRS 92A.390(1) does not adversely affect Pope's right to dissent from the Plan of Merger.

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[67] NRS 92A.390(1) (emphasis added)

[68] *See* Meeting Minutes, ¶ 5(i) (Exhibit 10)

[69] *See* Form 8-K (Exhibit 7) , p.4 (CYH 001271); *see also* Schedule 14A (Exhibit 6); *and* Plan of Merger (Exhibit 8), p.17, § 2.7(a)(iii) (CYH 001290) *and* pp.17-18, § 2.7(c) (CYH 001290-CYH 001291); and Meeting Minutes, ¶ 5(i) (Exhibit 10).

D. The Principal Shareholders' Freeze-Out Merger Requires CYH to Prove The Entire Fairness Of The Merger And Merger Price

While Nevada fair value litigation under NRS Chapter 92A calls for both parties bearing the burden of proof concerning valuation, the Delaware Courts have held that "a freeze-out merger of the minority proposed by the majority stockholder is inherently coercive."[70] To address the inherent coercion present in freeze out mergers such as CYH's merger in this case, the Delaware Court have held that when a controlling shareholder buys out minority shares, the Court must look to the entire fairness of the merger and the merger price.[71]

> The [Delaware] Supreme Court concluded that even a gauntlet of protective barriers ... would be insufficient protection because of (what I will term) the "inherent coercion" that exists when a controlling stockholder announces its desire to buy the minority's shares. In colloquial terms, the Supreme Court saw the controlling stockholder as the 800-pound gorilla whose urgent hunger for the rest of the bananas is likely to frighten less powerful primates like putatively independent directors who might well have been hand-picked by the gorilla (and who at the very least owed their seats on the board to his support).
>
> The Court also expressed concern that minority stockholders would fear retribution from the gorilla if they defeated the merger and he did not get his way. This inherent coercion was felt to exist even when the controlling stockholder had not threatened to take any action adverse to the minority in the event that the merger was voted down and thus was viewed as undermining genuinely free choice by the minority stockholders.
>
> All in all, the Court was convinced that the powers and influence possessed by controlling stockholders were so formidable and daunting to independent directors and minority stockholders that protective devices like special committees and majority of the minority conditions (even when used in combination with the statutory appraisal remedy) were not trustworthy enough to obviate the need for an entire fairness review.[72]

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[70] *In re Emerging Communs., Inc. S'holders Litig.*, No. 16415, 2004 Del. Ch. LEXIS 70, at *115 (Del. Ch. May 3, 2004).

[71] See *Kahn v. M&F Worldwide Corp.*, 88 A.3d 635, 645 (Del. 2014).

[72] *See In re Pure Res. S'holders Litig.*, 808 A.2d 421, 436 (Del. Ch. 2002) (*interpreting Kahn v. Lynch Commc'n Sys.*, 638 A.2d 1110 (Del. 1994)).

Controlling shareholders, such as the Principal Shareholders in this case, can lessen the inherent coercion of a freeze out merger by adopting procedural safeguards, including, among others, conditioning the procession of the transaction on the approval of both a Special Committee and a majority of the minority stockholders and appointing a Special Committee that meets its duty of care in negotiating a fair price.[73] In doing so, however,

> ...the controlling stockholder must do more than establish a perfunctory special committee of outside directors. Rather, the special committee must function in a manner which indicates that the controlling stockholder did not dictate the terms of the transaction and that the committee exercised real bargaining power at an arms-length. As we have previously noted, deciding whether an independent committee was effective in negotiating a price is a process so fact-intensive and inextricably intertwined with the merits of an entire fairness review (fair dealing and fair price) that a pretrial determination of burden shifting is often impossible.[74]

CYH undertook no such protective measures; the evidence at trial will demonstrate that the Principal Shareholders dictated price and the "Special Committee" did not exercise any real bargaining power. The Principal Shareholders' freeze-out merger of Pope and the other minority shareholders was not only inherently but unapologetically coercive.

CYH is not entitled to summary judgment because in addition to the other arguments presented in this opposition, CYH has failed to carry its burden of proving the entire fairness of the merger and the merger price.

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[73] See *Kahn v. M&F Worldwide Corp.*, 88 A.3d 635, 645.
[74] See *id.*, 88 A.3d at 646.

E. CYH's Repeated Affirmative Representations To Shareholders Confirming Shareholders' Right To Dissent From The Merger Operates As A Waiver and Estoppel

Plans of Merger may include other provisions extending shareholders' rights beyond those set forth in NRS Chapter 92A.[75]

Nevada has long recognized the concepts of waiver and estoppel: "Where person encourages act to be done, he cannot afterwards exercise his legal right in opposition."[76] "A waiver is the intentional relinquishment of a known right."[77] Estoppel requires proof of 4 elements:

> (1) The party to be estopped must be apprised of the true facts;
> (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting estoppel has the right to believe it was so intended;
> (3) the party asserting the estoppel must be ignorant of the true state of facts;
> (4) he must have relied to his detriment on the conduct of the party to be estopped.[78]

"Some courts speak in terms of waiver. Others invoke estoppel. On occasion both doctrines are used interchangeably and without differentiation."[79] Here, CYH repeatedly provided its shareholders, Pope included, with a Plan of Merger that expressly and unequivocally provided the right to dissent from the Plan of Merger and obtain payment of a judicially determined fair value for their shares.[80] Pursuant to NRS 92A.120(4), CYH summarized the shareholders' right to dissent as set forth in the Plan of Merger by telling Pope and the other shareholders:

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[75] NRS 92A.100(3)(b).

[76] *Thomas v. Palmer*, 49 Nev. 438, 442, 248 P. 887, 888 (1926) (*citing Swain v. Seamens*, 76 U.S. 254, 19 L. Ed. 554 (1869) *and Smiley v. Barker*, 83 F. 684 (8th Cir. 1897)).

[77] *Reno Realty & Inv. Co. v. Hornstein*, 72 Nev. 219, 225, 301 P.2d 1051, 1054 (1956) (*citing Santino v. Glens Falls Insurance Company*, 54 Nev. 127, 139, 9 P.2d 1 (1932)).

[78] *Mahban v. MGM Grand Hotels*, 100 Nev. 593, 596, 691 P.2d 421, 423 (1984) (*citing Cheqer, Inc. v. Painters & Decorators*, 98 Nev. 609, 614, 655 P.2d 996, 998-99 (1982)).

[79] *Violin v. Fireman's Fund Ins. Co.*, 81 Nev. 456, 462, 406 P.2d 287, 290 (1965) (citations omitted).

[80] *See* Schedule 14A (Exhibit 6) pp.87-126 (CYH 000212 – CYH000251); *see also* Plan of Merger (Exhibit 8) *and* Form 8-K (Exhibit 7), p.4 (CYH 001271).

> "You have a statutory right to dissent from the Merger and demand payment of the fair value of your shares of Company Common Stock as determined in a judicial appraisal proceeding in accordance with [NRS Chapter 92A]."[81]

Pope relied on CYH's conduct and representations throughout the merger process and preserved[82], exercised,[83] perfected[84], and litigated[85] its right to dissent.

All 4 elements of estoppel are present, so too is the element of intentional relinquishment required for waiver. "If intention is to be implied from conduct, the conduct should speak the intention clearly."[86] CYH's actions clearly demonstrate the intention to provide dissenter's rights to their shareholders.

CYH repeatedly and affirmatively represented that the CYH shareholders could exercise their right to dissent from the plan of merger. Pope has demonstrated that CYH cannot avail itself of any claimed exception to Pope's right to dissent from the merger, but in any event, CYH has waived and is estopped from asserting any legal rights CYH might have to deny Pope's dissenter's right to obtain payment of a judicially determined fair value for its 924,515 share in CYH.

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[81] *See* Schedule 14A (Exhibit 6), p.16, 2nd ¶ (CYH 000141).
[82] *See* NRS 92A.420 *and* Notices of Intent to Demand Payment (Exhibit 9).
[83] *See* NRS 92A.440 *and* Pope's Demand for Payment (Exhibit 12).
[84] *See* NRS 92A.480 *and* Pope's Estimate of Fair Value and Demand for Payment (Exhibit 14)).
[85] *See* First Amended Petition to Determine Fair Value, January 6, 2017, p.3, ¶ 28.
[86] *Reno Realty & Inv. Co. v. Hornstein*, 72 Nev. 219, 225, 301 P.2d 1051, 1054 (1956) (*citing Santino v. Glens Falls Insurance Company*, 54 Nev. 127, 139, 9 P.2d 1 (1932)).

V.

CONCLUSION

For the reasons set forth herein, this Court should deny summary judgment and determine the fair value of Pope's 924,515 pre-merger shares of CYH common stock at the bench trial set for August 26, 2019.

Dated this 26th day of June, 2019.

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CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that on the 26th day of June , 2019, I served a true and complete copy of the foregoing **RESPONDENTS' OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules:

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CHINA YIDA HOLDING CO.

AN EMPLOYEE OF CHASEY LAW OFFICES

EXHIBIT A

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934

DATE OF REPORT (DATE OF EARLIEST EVENT REPORTED): June 19, 2009

China Yida Holding, Co.
(EXACT NAME OF REGISTRANT AS SPECIFIED IN CHARTER)

Delaware	**000-26777**	**22-3662292**
(STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION)	(COMMISSION FILE NO.)	(IRS EMPLOYEE IDENTIFICATION NO.)

RM 1302-3 13/F, Crocodile House II
55 Connaught Road Central Hong Kong
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

86-591-28308388
(ISSUER TELEPHONE NUMBER)

(FORMER NAME OR FORMER ADDRESS, IF CHANGED SINCE LAST REPORT)

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

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

Item 8.01. Other Events.

On June 19, 2009, China Yida Holding, Co. has filed an application for listing its common stock on the NASDAQ Capital Market with the goals of gaining access to a broker institutional investment community, strengthening its financing flexibility, and providing greater liquidity for its shareholders.

On April 23, 2009, the majority shareholders of the Company approved a 4 for 1 reverse stock split (the "Reverse Split") on the Company's issued and outstanding common stock by written consent in lieu of a special meeting in accordance with the Delaware General Corporation Law. Pursuant to Section 14C of the Securities and Exchange Act of 1934, the Company filed a preliminary information statement and a definitive information statement notifying all shareholders of the Reverse Split on April 27, 2009 and May 7, 2009, respectively. FINRA declared the Reverse Split effective on June 16, 2009. As a result of the effectiveness of the Reverse Split, effective on June 16, 2009, the Company's symbol was changed to CNDH.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

None

SIGNATURES

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

China Yida Holding, Co.

By: */s/ Minhua Chen*
Name: Minhua Chen
Title: Chairman of the Board of Directors

Dated: June 30, 2009

RIS
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DISTRICT COURT

CLARK COUNTY, NEVADA

CHINA YIDA HOLDING, CO., a Nevada corporation,

Petitioner,

v.

POPE INVESTMENTS, LLC, a Delaware limited liability company; POPE INVESTMENTS II, LLC, a Delaware limited liability company; and ANNUITY & LIFE REASSURANCE, LTD., an unknown limited company;

Respondents.

Case No. A-16-746732-P

Dept. No. XXVII

PETITIONER CHINA YIDA HOLDING, CO.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Petitioner China Yida Holding, Co. ("CYH"), by and through its undersigned counsel, Holland & Hart LLP, submits its Reply in Support of its Motion for Summary Judgment.

I. INTRODUCTION

Respondents' Opposition to CYH's Motion for Summary Judgment fails to carry its burden in establishing a genuine dispute as to the material facts of this case. As discussed in the Motion for Summary Judgment, because CYH's stock was a covered security traded on a national market, Respondents are not entitled to dissenter's rights or a determination of fair value. In addition, no exception applies because CYH's Board of Directors did not expressly

provide for dissenter's rights and Respondents were paid cash for their shares. In fact, Respondents agree that a merger occurred with CYH, that CYH's stock is a covered security, and that they were paid cash for their shares. But instead of addressing the realities of NRS 92A.390, which clearly states that Respondents do not have a right to dissent, Respondents rely on misplaced equitable principles, statutory misinterpretation, and inapplicable waiver and estoppel arguments. As explained more thoroughly below, Respondents' arguments fail. And because no genuine issues of material fact remain, the Court should enter summary judgment in favor of CYH.

II. RESPONSE TO STATEMENT OF FACTS[1]

Respondents agree that CYH's stock was traded on the NASDAQ Capital Market from 2008 until July 8, 2016. *Resp'ts' Opp. to Mot. for Summ. J., at 3:17-18*. Respondents further agree that CYH's stock closed at $1.97 on March 9, 2016, a day before the announcement of the Merger. *Id. at 3:18-19*. Respondents do not dispute that CYH merged with China Yida Holding Acquisition Co., and that the terms of the merger are provided in the Amended and Restated Agreement and Plan of Merger ("Amended Merger Agreement"). Respondents also do not dispute that the NASDAQ Capital Market is a national market and that stock traded on the NASDAQ Capital Market are covered securities pursuant to section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B). Finally, Respondents agree that they were paid cash for their shares as a result of the merger, in the amount of $3.32 per share. *Id. at 6:14-16.*

Contrary to Respondents' selective reading, CYH's Board of Directors did not provide a resolution expressly providing shareholders with dissenter's rights regardless of Nevada's laws. The documents filed with the SEC and provided to shareholders, which were not resolutions, simply informed its shareholders of their rights under the Nevada Revised Statutes and instructed its shareholders to consult an attorney regarding the availability of those rights.

[1] CYH provides responses to Respondents' Statement of Material Facts that are relevant to the Motion for Summary Judgment, in accordance with NRCP 56. CYH specifically reserves the right to refute all of Respondents' assertions made in the Statement of Material Facts at a later date, including at trial, should it be necessary.

See e.g., *Exhibit 6 to Mot. for Summ. J. at 122*. Similarly, the Amended Merger Agreement merely provided that to the extent a shareholder had "***validly exercised and not lost its rights to dissent from the Merger pursuant to the NRS"*** such shareholder would be paid fair value of his or her shares "***in accordance with NRS***." *Exhibit 8 to Mot. for Summ. J. at 270 (emphasis added)*. But a shareholder cannot validly exercise dissenter's rights if they are statutorily precluded from exercising them in the first place. Moreover, such statement is not a resolution expressly providing for dissenter's rights, and CYH's Board of Directors did not pass any resolution expressly and unequivocally waiving the market-out exception and providing for dissenter's rights. *Declaration of Minhua Chen* at ¶16. Again, CYH merely informed its shareholders of rights provided under NRS Chapter 92A and instructed them to consult legal counsel with respect to any such rights.

Finally, Respondents agree that Pope purchased 9,523,810 shares of CYH at $1.05 per share in 2008, but then state that the "adjusted" price of the shares means that Pope paid $21.00 per share. Pope did not pay $21.00 per share, but instead claims that CYH's two reverse stock splits "adjusted" the price it paid from $1.05 to $21.00. A reverse stock split reduces the number of shares of a corporation by a certain ratio in hopes of increasing the per share price. *See* Reverse Stock Split, *Investopedia*, Apr. 1, 2019, *available at* https://www.investopedia.com/terms/r/reversesplit.asp. CYH underwent a 4-for-1 reverse stock split on June 16, 2009, and a 5-for-1 reverse stock split on November 19, 2012. Pope does not state that it was required to pay any additional funds as a result of the reverse stock split, only that these reverse stock splits retroactively "adjusted" the price paid.[2]

III. LEGAL ARGUMENTS

A. RESPONDENTS' EQUITABLE ARGUMENTS ARE INAPPLICABLE & IRRELEVANT

Respondents mistakenly claim they have dissenter's rights based on some equitable grounds that allow them to obtain a judicial determination of the fair value of their stock,

[2] In any event, the actual amount paid by Respondents for their shares is irrelevant to the determination of this Summary Judgment Motion.

despite the clear statutory language of NRS 92A.390(1)(a), which provides the market-out exception. Respondents fail to fully comprehend the market-out exception applicable in dissenter's rights cases.

The market-out exception was created because shareholders of publicly traded corporations were not in the same position as shareholders of closely held corporations or members of limited liability companies. Shareholders of public companies could sell their shares on a public stock market if they disagreed with the merger or the price offered per share, whereas members of closed-corporations and LLCs had no such option. In other words, the market-out exception exists to provide shareholders of a publicly traded company the option of either accepting the value offered by the company for their shares or trading their shares on the open market to obtain a price higher than that offered by the company.

Knowing that no reasonable investor would offer Respondents $23 for a stock trading at $1.97, Respondents sought judicial intervention to obtain an unrealistic price for its stock, a price the market would never pay. However, the Nevada Legislature, along with 35 other states, have expressly prohibited Respondents' actions of bypassing the market to obtain from a court what it cannot obtain from the market. In this case Respondents had two choices: 1) accept the per stock value offered by CYH; or 2) obtain a better offer from the market by selling its shares on the NASDAQ. Respondents' attempt to pursue dissenter's rights – a right only available to privately held companies – in an effort to have this Court award them $23 per share for a $2 stock is not an option provided by Nevada law.

Faced with this reality, Respondents now argue that the market-out exception is inequitable as it would subject them to the unfairness of the majority shareholders. First, Respondents' equitable arguments are barred because a shareholder's right to dissent is governed solely by statute and not equitable principles. *See Am. Ethanol, Inc. v. Cordillera Fund, L.P.*, 127 Nev. 147, 151, 252 P.3d 663, 667 (2011) ("NRS 92A.300-500 governs the rights of stockholders who dissent from certain corporate actions, such as mergers."); *see also Ala. By-Prods. Corp. v. Cede & Co. ex rel. Shearson Lehman Bros.*, 657 A.2d 254, 258 (Del.

1995) (stating that the appraisal remedy is entirely a creature of statute and that "the appraisal right is given to the stockholder in compensation for his former right at common law to prevent a merger."). Because Nevada has codified the market-out exception and other procedures governing dissenter's rights, Respondents' equitable arguments to bypass the statute based on perceived notions of fairness are barred. Respondents' argument lies with the Nevada Legislature, not with this Court.

Second, Respondents' fairness arguments are simply incorrect and inapplicable here where they had the option to sell their shares on the NASDAQ. The Nevada Legislature, as well as 35 other states, created the market-out exception finding that because shareholders of publicly traded corporations can trade their shares on the open market, they are not subject to the same conditions giving rise to dissenter's rights as shareholders of private businesses. Dissenter's rights are premised on the perceived unfairness of minority shareholders being impacted by majority shareholders. *Am. Ethanol, Inc. v. Cordillera Fund, L.P.*, 127 Nev. 147, 151, 252 P.3d 663, 667 (2011). Minority shareholders in closed corporations or private corporations have no option but to accept the will of majority shareholders as there is no market for them to sell their shares. Such a situation does not exist with publicly traded corporations, as the shares are bought and sold on the open market, such as the NASDAQ. Shareholders of publicly traded corporations can either accept the merger terms or seek a better price from the open market, whereas shareholders of private corporations must accept the majority shareholders' decision. Notably, NRS 92A.390(1) was amended during the 2009 legislative session, and the Legislature was presented with the following testimony:

> Dissenter's rights are triggered when a merger is proposed and there is a minority that opposes the merger. The minority might not like the merger consideration offered them. If they vote against the merger but are outvoted, if the company is privately held, they have the option of becoming a dissenter and having a court tell them what the value of their stock is. That is paid to them in cash by the resulting entity from the merger. This is a long-standing principle of corporate law. But, there has also been a long-standing exception that if you are a public company you do not get that right. The thinking is you can always sell the stock because you have a market for the stock.

Minutes of the Meeting of the Assembly Committee on Judiciary, Hearing on S.B. 350, 2009 Leg., Sess. 75 (Nev. May 14, 2009) (statements of John Fowler, Member, Executive

Committee, Business Law Section, State Bar of Nevada. The Business Law Section of the State Bar of Nevada drafted Senate Bill 350 to update Nevada's corporate law).[3] Presented with the testimony on the market-out exception, the Nevada Legislature reaffirmed the market-out exception.

Furthermore, dissenter's rights and a judicial determination are unnecessary to determine the value of publicly traded stock because the market in which the stock is traded provides the fair value of the stock. *See* David J. Ratway, *Delaware's Stock Market Exception to Appraisal Rights*, 28 U. Toledo L. Rev. 179, 204 (1996). "The premise behind [the market-out exception] is that the market creates a cash exit at fair value, thereby making the appraisal remedy unnecessary." *Id.* "If the shareholder can receive the fair value of his or her stock by selling it in the market, then there is no need for a judicial proceeding to determine this value. It has already been set with the best source of information regarding values: a competitive market." Michael R. Schwenk, *Valuation Problems in the Appraisal Remedy*, 16 Cardozo L. Review 649, 681-82 (1994). Thus, the market-out exception provides minority shareholders of publicly traded corporations an option to avoid the perceived unfairness of the majority's decisions *and* provides a fair valuation of the stock rendering a court's valuation unnecessary. Accordingly, Respondents' arguments seeking to avoid NRS 92A.390(1) on fairness grounds are without merit.

Respondents make the additional incorrect argument that CYH is not entitled to summary judgment as it "failed to carry its burden of proving the entire fairness of the merger and the merger price." *Resp'ts' Opp. to Mot. for Summ. J., at 13:21-22*. Like their equitable arguments seeking to avoid NRS 92A.390(1), Respondents' arguments regarding a "fairness" determination of the merger are irrelevant. First, as discussed in the Motion for Summary Judgment and above, Respondents have no dissenter's rights and no right to a judicial determination of the fair value of the stock pursuant to NRS 92A.390(1). As to their actual

[3] The Minutes of the Assembly Committee on Judiciary discussing Senate Bill 305 are available at https://www.leg.state.nv.us/Session/75th2009/Minutes/Assembly/JUD/Final/1192.pdf.

argument, Respondents cite *In re Pure Resources, Inc., Shareholders Litigation*, 808 A.2d 421 (Del. Ch. 2002), for the proposition that courts are required to evaluate the fairness of the merger and the merger price when determining the fair value of shares in a dissenter's rights proceeding. *Resp'ts' Opp. to Mot. for Summ. J., at 12*. This is simply incorrect. *In re Pure Resources*, which is based on the Delaware Supreme Court's decision in *Weinberger v. UOP, Inc.*, 457 A.2d 701 (Del. 1983), requires courts to evaluate the fairness of the merger and the merger price *when a minority shareholder challenges the merger, not in an appraisal/dissenter action*. *Id.* at 703.

Respondents also cite *In re Emerging Communications, Inc. Shareholders Litigation*, 2004 WL 1305745, at *1 (Del. Ch. May 3, 2004) for further support that the Court must conduct a fairness evaluation to determine the price of the shares; however, *Emerging Communications* illustrates Respondents' mistake. *Emerging Communications* involved two claims by different parties, a separate appraisal action based on Delaware Code § 262 and a class action by other shareholders asserting that the corporation's board breached their fiduciary duties by approving the merger. *Id.* at *9. As illustrated in that case:

> [T]he plaintiffs have brought and litigated two separate actions-a statutory appraisal action and a class action asserting claims that the Privatization was not entirely fair to ECM's minority shareholders. In a statutory appraisal action, the Court must determine the 'fair value' of the corporation whose stock is being appraised….In a class action seeking to invalidate a 'going private' acquisition of a corporation's minority stock by its majority stockholder, the standard under which this Court reviews the validity of the transaction and the liability of the fiduciaries charged with breach of duty, is entire fairness.

Id. Thus, *Emerging Communications* merely stands for the proposition that courts only look to the fairness of a merger when the merger is being challenged by minority shareholders who allege a claim of breach of fiduciary duty by the board in approving the merger.

Here, Respondents have not challenged the Merger of CYH, have not asserted any claims for any misdeeds or breaches of fiduciary duties, and have not asserted any counterclaims against CYH or CYH's Board. Respondents' assertion that CYH has a duty to prove the "fairness" of the merger is wholly without merit.

In addition, NRS Ch. 92A does not contemplate vague principles of "fairness" in determining the fair value of shares. Rather, when a shareholder demands payment, NRS 92A.490(1) requires a corporation to file a petition for the court to determine the fair value of the corporation's shares. NRS 92A.320 defines fair value as follows:

> Fair value, with respect to a dissenter's shares, means the value of the shares determined:
>
> 1. Immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable;
> 2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and
> 3. Without discounting for lack of marketability or minority status.

Neither NRS Ch. 92A nor case law requires CYH to prove the fairness of the merger as a factor in establishing the fair value of its stock. Respondents' equitable arguments are entirely misplaced and have no effect on this matter being subject to the market-out exception in NRS 92A.390(1).

B. CYH'S BOARD OF DIRECTORS DID NOT PASS A RESOLUTION EXPRESSLY PROVIDING FOR DISSENTER'S RIGHTS AND WAIVING THE MARKET-OUT EXCEPTION

As explained at length in the Motion for Summary Judgment, NRS 92A.390(1) provides that shareholders have no right to dissent when the shares of a corporation are a covered security traded on a national market, "unless… the resolution of the board of directors approving the plan of merger, conversion or exchange *expressly* provide otherwise." Respondents now argue that the CYH Board expressly provided them with dissenter's rights because it approved the Amended Plan of Merger, which states that a stockholder who validly exercised and not lost the right to dissent will be paid in accordance with NRS Chapter 92A. Simply put, Respondents are attempting to equate the Amended Plan of Merger with a resolution by the Board expressly providing them with a right to dissent regardless of the market-out exception contained in NRS 92A.390(1)(a). But the Amended Plan of Merger is not a resolution expressly providing dissenter's rights. In fact, the Amended Plan of Merger

does not even come close to expressly providing for dissenter's rights and/or waiving the provisions of NRS 92A.390(1)(a).

"In interpreting a statute, [courts] begin with its plain meaning and consider the statute as a whole, awarding meaning to each word, phrase, and provision, while striving to avoid interpretations that render any words superfluous or meaningless." *Knickmeyer v. State ex. rel. Eighth Judicial Dist. Ct.*, 408 P.3d 161, 166 (Nev. Ct. App. 2017) (citing *Haney v. State*, 124 Nev. 408, 411-12, 185 P.3d 350, 353 (2008)). The plain language of NRS 92A.390(1) requires a resolution from a corporation's board of directors expressly and unequivocally waiving the entitlements of NRS 92A.390(1)(a) and expressly providing its shareholders with dissenter's rights. As discussed below, NRS 92A.390(1) has three requirements: 1) that the board of directors pass a resolution concerning only the issue of dissenter's rights; 2) that the resolution expressly waive the corporation's rights provided by NRS 92A.390(1)(a)-(c); and 3) that the resolution expressly provide shareholders dissenter's rights. None of the three required conditions have been established in the record or by Respondents.

First, Respondents incorrectly claim that CYH's Amended Merger Agreement provided the shareholders with dissenter's rights pursuant to NRS Ch. 92A. As noted above, the plain language of NRS 92A.390(1) and its use of "expressly" means that the board of directors can grant dissenter's rights via a resolution only when the board votes and passes a resolution limited to the sole issue of dissenter's rights. Black's Law Dictionary defines express to mean "[c]learly and unmistakably communicated; stated with directness and clarity." *Express*, Blacks' Law Dictionary (11th ed. 2019). Including a vote to unnecessarily grant dissenter's rights while voting on several other issues would render meaningless the Legislature's inclusion of the word expressly in the statute. The Amended Merger Agreement contains 80 sections other than the section Respondents argue provides dissenter's rights, thus it did not address the sole issue of providing dissenter's rights. As stated by Chen in his declaration, CYH's Board of Directors did not approve a resolution solely providing dissenter's rights.

Thus, Respondents' arguments that the Amended Merger Agreement provided dissenter's rights is legally incorrect.[4]

Additionally, NRS 92A.390(1)'s use of the term "resolution" unequivocally means that a company's plan of merger cannot be used as the mechanism for providing dissenter's rights to shareholders when they would have none. NRS 92A.100 provides a definition and requirements for a plan of merger. "If the Legislature has independently defined any word or phrase contained within a statute, [courts] must apply that definition wherever the Legislature intended it to apply because '[a] statute's express definition of a term controls the construction of that term no matter where the term appears in the statute.'" *Knickmeyer*, 408 P.3d at 166 (quoting *Williams v. Clark Cty. Dist. Attorney*, 118 Nev. 473, 485, 50 P.3d 536, 544 (2002)). The Legislature could have said that a board of directors can provide for dissenter's rights in its plan of merger or by a resolution; however, it did not and instead used only the term "resolution." Additionally, "resolution" is not defined to include the term "plan of merger." *See* NRS 92A.100. The plain language of NRS 92A.390(1) requires a board of directors to vote on and pass a resolution concerning only the granting of dissenter's rights and a plan of merger cannot provide dissenter's rights. Respondents also claim that CYH's Proxy Statement and Notice of Meeting provided to shareholders provided for dissenter's rights; however, Respondents do not claim that the Proxy Statement was passed via a resolution by CYH's Board. As CYH's Board of Directors did not pass a resolution dedicated solely to the issue of granting dissenter's rights, Respondents have no right to a determination of fair value.

Further, Respondents fail to meet the second requirement of NRS 92A.390(1) as CYH's Amended Merger Agreement and other merger documents did not expressly waive the rights provide by NRS 92A.390(1)(a). NRS 92A.390(1) requires a board of directors of a corporation subject to NRS 92A.390(1)(a) seeking to provide dissenter's rights to shareholders to pass a resolution to "expressly provide otherwise." CYH's Board was required to expressly provide

[4] Respondents' assertion that CYH's Board of Directors approved the Amended Merger at the June 28, 2016 Special Meeting is incorrect. The Minutes of the Meeting state only that the shareholders approved the Merger. There is nothing about the Board approving the Amended Merger Agreement as well. *Exhibit 10 at passim.*

otherwise, *i.e.* that despite the statutory rights provided by NRS 92A.390(1)(a), CYH was expressly waiving those rights and providing dissenter's rights to its shareholders. NRS 92A.390(1)'s use of the terms "expressly" and "otherwise" is a requirement for a corporation to waive the market-out exception to avoid any confusion regarding the applicability of dissenter's rights. There is nothing in the Exhibits cited by Respondents, nor in the record provided by the parties, that show that CYH's Board of Directors were expressly waiving the statutory right provided by NRS 92A.390(1)(a). Again, Respondents have failed to establish the requirements of NRS 92A.390(1) and they have no right to dissent.

As to the third requirement, CYH's Amended Merger Agreement and other merger documents did not expressly provide for dissenter's rights notwithstanding the market-out exception codified in NRS 92A.390(1)(a). In fact, the Amended Merger Agreement retained the market-out exception as the Agreement stated that only shareholders who *validly exercised* and not lost the right to dissent will not receive the Per Share Merger Consideration, but will be entitled to payment *in accordance with NRS Ch. 92A.* As the Amended Merger Agreement states:

> (c) Statutory Dissenters Rights. Notwithstanding anything in this Agreement to the contrary, any Company Shares that are issued and outstanding immediately prior to the Effective Time and are held by a Company Shareholder (each, a "Dissenting Shareholder") ***who has validly exercised and not lost its rights to dissent from the Merger pursuant to the NRS (collectively, the "Dissenting Shares") shall not be converted into or exchangeable for or represent the right to receive the Per Share Merger Consideration (except as provided in this Section 2.7(c)), and shall entitle such Dissenting Shareholder only to payment of the fair value of such Dissenting Shares as determined in accordance with the NRS***. If any Dissenting Shareholder shall have effectively withdrawn (in accordance with the NRS) or lost the right to dissent, then upon the occurrence of such event, the Dissenting Shares held by such Dissenting Shareholder shall cease to be Excluded Shares, and shall be cancelled and converted into and represent the right to receive the Per Share Merger Consideration at the Effective Time, pursuant to Section 2.7(a)(ii).

Exhibit 8 at 270 (emphasis supplied).

Thus, the Amended Merger Agreement did not provide shareholders any additional rights from those set forth in the NRS. Rather, the Amended Merger Agreement simply explained that if a stockholder validly holds and exercises such rights, then they are entitled to

the fair value of their shares in accordance with the NRS. But significantly, a stockholder cannot validly exercise dissenter's rights if they did not have the right to dissent in the first place pursuant to NRS 92A.390(1)(a). Moreover, the language that a shareholder would be paid only in "accordance with the NRS" would necessarily include the market-out exception contained in NRS 92A.390(1)(a). In fact, because NRS 92A.390(1) states that shareholders of a publicly traded company have no right to dissent, any judicial appraisal proceeding performed "*in accordance with the NRS*" would result in finding that CYH's shareholders had no right to dissent. Because NRS 92A.390(1) provides that shareholders of publicly traded companies do not have dissenter's rights, the Amended Merger Agreement did not provide shareholders any additional rights, including the right to dissent. Thus, the provision upon which Respondents rely does nothing to support their position that the Board expressly provided them with dissenter's rights.

In addition, CYH's Proxy Statement and Notice to Shareholders (Exhibit 6), further confirms that CYH shareholders, including Respondents, were informed that they may have dissenter's rights in accordance with NRS Ch. 92A, but there was no explicit granting of dissenter's rights or a disregard of NRS 92A.390(1)(a).[5] The Proxy Statement simply repeated Nevada law that shareholders "have a statutory right to dissent from the Merger and demand payment of the fair value of [their] shares of Company Common Stock *as determined in a judicial appraisal proceeding in accordance with Chapter 92A* (Section 300 through 500 inclusive) of the NRS…. Shareholders seeking to exercise their statutory right of dissent are encouraged to seek advice from legal counsel." *Exhibit 6 at 118*. The Proxy Statement also stated that shareholders may dissent and further encouraged them to seek advice from legal counsel. *Id. at 122*. And the fact that the Proxy Statement identified "Section 300 through 500" of NRS 92A, necessarily included the market-out exception codified in NRS 92A.390(1)(a).

Respondents also point to the fact that a copy of NRS Ch. 92A was attached to the Notice; however, CYH was required to provide a copy of these statutes. NRS 92A.410(1) states

[5] For the reasons stated above, a Proxy Statement and Notice to Shareholders is not a "resolution" of a board of directors just as a plan of merger is not a resolution.

that "[i]f a proposed corporate action creating dissenter's rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are, are not or may be entitled to assert dissenter's rights under NRS 92A.300 to 92A.500, inclusive. If the domestic corporation concludes that dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights." Respondents were informed that they may have dissenter's rights and encouraged to seek the advice of legal counsel. CYH was simply following the law by providing that its shareholders *may* have dissenter's rights and providing them a copy of NRS Ch. 92A. CYH did not expressly state that its shareholders do or do not have dissenter's rights as such statements could expose the company to liability. *See Krieger v. Wesco Fin. Corp.*, 30 A.3d 54, 59 (Del. Ch. 2011) (discussing generally breaches of fiduciary duties by board of directors for informing shareholders that they do not have dissenter's rights when such rights existed) (citing *Berger v. Pubco Corp.*, 976 A.2d 132 (Del. 2009)). Instead of providing affirmative statements as to the shareholder's rights, it was the responsibility of CYH's shareholders to seek legal advice regarding the availability of dissenter's rights provided by NRS Ch. 92A.

Ultimately, Respondents' selective interpretation of the Amended Merger Agreement and other merger documents is incorrect. None of the statements in Proxy Materials or the Amended Merger Agreement are clear and unequivocal statements granting dissenter's rights as NRS 92A.390(1) requires. The Amended Merger Agreement simply repeated Nevada law regarding dissenter's rights, without affirmatively concluding one way or the other on whether a dissenting stockholder could continue to maintain dissenting rights even if such action was barred by NRS 92A.390(a). Moreover, the Amended Merger Agreement is not equivalent to a resolution by the Board expressly providing for dissenter's rights notwithstanding the market-out exception. Thus, the statements in the Proxy Materials and Amended Merger Agreement simply informed shareholders of their rights under NRS Ch. 92A and advised them to seek advice from legal counsel. Thus, there is no express, explicit statement or resolution by CYH's

Board of Directors providing dissenter's rights to its shareholders, nor is there a clear, unmistakable waiver of NRS 92A.390(1)(a). Because Respondents have failed to provide a resolution from CYH's Board of Directors expressly waiving the statutory benefits provided by NRS 92A.390(1)(a) and a resolution providing shareholders with dissenters' rights, Respondents have failed to meet their burden in opposing the Motion for Summary Judgment.

Finally, if the Court finds that the statements in the Amended Merger Agreement are ambiguous or that they may provide dissenter's rights, this case must be stayed pursuant to the Mandatory Arbitration Clause included in the Amended Merger Agreement. The Amended Merger Agreement provides that "Subject to Section 10.7 and the last sentence of this Section 10.9, any disputes, actions and proceedings against any party or arising out of or in any way relating to this Agreement shall be submitted to the Hong Kong International Arbitration Centre ("HKIAC") and resolved in accordance with the Arbitration Rules of HKIAC in force at the relevant time (the "Rules") and as may be amended by this Section 9.09." *Exhibit 8 at 225*. If the Court were to find it necessary to interpret the Amended Merger Agreement to determine whether dissenter's rights were granted despite the clear evidence that no waiver of dissenter's rights was made by CYH's Board of Directors and no dissenter's rights were provided, then such question must be submitted to binding arbitration to interpret the terms of the Amended Merger Agreement. Accordingly, this action would have to be stayed pending the interpretation of the Amended Merger Agreement by the HKIAC. However, as CYH did not pass a resolution addressing the sole issue of dissenter's rights, did not explicitly waive its statutory rights provided in NRS 92A.390(1)(a), and did not expressly provide shareholders with dissenter's rights, Respondents are not entitled to a judicial determination of the fair value of their stock. And because Respondents agree that CYH's stock is traded on a national market meeting the requirements of section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), and because they were provided cash for their shares, Respondents are not entitled to dissenter's rights and CYH's Motion for Summary Judgment should be granted.

C. RESPONDENTS ARE NOT ENTITLED TO ASSERT THE DEFENSES OF WAIVER & ESTOPPEL

Finally, Respondents argue that the doctrines of waiver and estoppel apply to prevent CYH from arguing that they have no dissenter's rights. Specifically, Respondents contend that CYH represented that they have the right to dissent, upon which they relied. This argument fails for two reasons.

First, as explained above, CYH never stated that its stockholders have the absolute right to dissent notwithstanding the fact that they are precluded from doing so under NRS 92A.390(1)(a). Instead, CYH merely informed its stockholders of their rights under NRS Chapter 92A and to consult with their attorney. CYH is not obligated to explain the provisions of NRS Chapter 92A to Respondents, nor provide them with a legal conclusion as to whether or not they can validly exercise dissenter's rights. Respondents are sophisticated business entities with sophisticated legal counsel. They were well aware, or should have been aware, of the NRS provisions precluding them from pursuing dissenter's rights and cannot now argue that they simply relied on statements from CYH.

In addition, NRS Chapter 92A does not allow a company to refuse to provide its stockholders with dissenter's rights information and notices without risking substantial liability. When a shareholder demands payment under NRS Chapter 92A, NRS 92A.490 requires the company to file a petition asking the court to determine fair value of the stock when the amount demanded by the shareholder remains unsettled. There is no other option. In fact, if the company fails to file a petition within 60 days after demand for payment is received, the company must pay the full amount demanded by the stockholder (in this case over $20 million). *See* 92A.490(1). Thus, it is prudent for a company to send its stockholders information regarding dissenter's rights under NRS Chapter 92A, even if the company believes the stockholders do not have the right to dissent or to pursue a fair value determination. That is what CYH did. That does not constitute a waiver or estoppel of CYH's right to subsequently invoke NRS 92A.390(1)(a) to preclude Respondents from pursuing dissenter's rights or seeking a fair value determination.

Ultimately, CYH did not expressly provide Respondents with the right to dissent nor did they compel them to dissent from the Merger. CYH simply informed Respondents of the dissenter's rights statutes and instructed them to seek advice from legal counsel. Such statements do not amount to circumstances requiring the application of waiver and estoppel. Accordingly, Respondents' waiver and estoppel arguments should be rejected.

Second, it is NRS Chapter 92A that gives this Court subject matter jurisdiction to determine the fair value of a company's stock in a dissenter's rights proceeding. *See* NRS 92A.490. If a stockholder is statutorily barred from having dissenter's rights, then the Court lacks subject matter jurisdiction to proceed. Because Respondents do not have the right to dissent and seek the fair value of their shares, this Court lacks subject matter jurisdiction to proceed with a fair value determination. It is well established that subject matter jurisdiction cannot be waived and may be raised at any time, or *sua sponte* by a court of review." *Vaile v. Eighth Judicial Dist. Court ex rel. County of Clark*, 118 Nev. 262, 276, 44 P.3d 506, 515–16 (2002); *see also Mainor v. Nault,* 120 Nev. 750, 761 n.9, 101 P.3d 308, 315 n.9 (2004) ("Lack of subject matter jurisdiction can be raised at any time during the proceedings and is not waivable."). And "[p]arties may not confer jurisdiction upon the court by their consent when jurisdiction does not otherwise exist." *Vaile v. Eighth Judicial Dist. Court,* 118 Nev. 262, 275, 44 P.3d 506, 515 (2002)). Accordingly, for this additional reason, Respondents' waiver and estoppel arguments fail.

IV. CONCLUSION

Respondents have failed to create any relevant, genuine issue of material fact that would entitle them to dissenter's rights. Respondents agree that CYH's stock is a covered security traded on a national market and Respondents agree that they were provided cash for their stock as a result of the merger. As the Record unequivocally shows that CYH did not pass a resolution regarding the sole issue of dissenter's rights, did not expressly waive their statutory rights, and did not expressly provide its shareholders with dissenter's rights, Respondents are not entitled to a determination of the fair value of their shares, pursuant to NRS 92A.380.

Accordingly, CYH is entitled to judgment as a matter of law that Respondents are not entitled to dissent. CYH, therefore, respectfully requests that its Motion for Summary Judgment be granted.

DATED this 10th day of July, 2019.

HOLLAND & HART LLP

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2019, a true and correct copy of the foregoing **PETITIONER CHINA YIDA HOLDING, CO.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** was served by the following method(s):

☑ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and serving all parties electronically in accordance with the E-service list to the following:

Peter L. Chasey, Esq.
CHASEY LAW OFFICES
3295 N. Fort Apache Road, Suite 110
Las Vegas, Nevada 89129

Attorneys for Respondents

❒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

❒ Email: by electronically delivering a copy via email to the following e-mail address:

❒ Facsimile: by faxing a copy to the following numbers referenced below:

/s/ Yalonda Dekle
An Employee of HOLLAND & HART LLP

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