AVIS BUDGET GROUP, INC.
Form 4
February 22, 2012

FORM 4

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

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

OMB APPROVAL

OMB Number:	3235-0287
Expires:	January 31, 2005
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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

(Print or Type Responses)

1. Name and Address of Reporting Person *
EDELMAN MARTIN L

(Last) (First) (Middle)

6 SYLVAN WAY

(Street)

PARSIPPANY, NJ 07054

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
AVIS BUDGET GROUP, INC. [CAR]

3. Date of Earliest Transaction (Month/Day/Year)
02/17/2012

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer
(Check all applicable)
__X__ Director _____ 10% Owner
_____ Officer (give title below) _____ Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	02/17/2012		A		1,462	A	$ 13.09 (1)	59,827	I	Held by NQ Deferred Compensation Plan
Common Stock								35,300	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Nu Deriv Secur Bene Owne Follo Repo Trans (Instr
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares		

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
EDELMAN MARTIN L 6 SYLVAN WAY PARSIPPANY, NJ 07054	X			

Signatures

Jean M. Sera, by Power of Attorney for Martin L. Edelman	02/22/2012
**Signature of Reporting Person	Date

Explanation of Responses:

***** If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

****** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) Award represents the portion of non-employee director retainer fees through March 31, 2012 paid in deferred common stock of the Company. All shares are deferred into the Non-Employee Directors Deferred Compensation Plan and converted into deferred stock units thereunder. Payable upon termination of service as director in accordance with the plan.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. ign="bottom" style="background: #CCEEFF">

ASSETS

Investments at fair value:

Non-control/non-affiliate investments (cost of $269,577,008 2008, $294,686,727 2007) $ 240,486,620 $ 290,225,759
Affiliate investments (cost of $53,129,533 2008, $86,577,905 2007) 51,457,082 85,171,605
Control investments (cost of $43,192,484 2008, $6,980,389 2007) 30,427,046 9,328,389

Total investments
322,370,748 384,725,753
Cash and cash equivalents
6,449,454 789,451
Restricted cash
22,155,073 10,487,202
Interest receivable
1,390,285 1,758,954
Other assets
1,897,086 617,448
TOTAL ASSETS
$ 354,262,646 $ 398,378,808 **LIABILITIES AND STOCKHOLDERS EQUITY**
LIABILITIES

Borrowings
$ 162,600,000 $ 164,900,000
Interest payable
514,125 821,124
Dividends payable
5,253,709 6,814,650
Accounts payable, accrued expenses and other
5,777,642 4,245,350
TOTAL LIABILITIES
174,145,476 176,781,124
STOCKHOLDERS EQUITY

Preferred stock, $0.01 par value, 1,000,000 shares authorized; no shares issued and outstanding

Common stock, $0.01 par value, 49,000,000 shares authorized; 20,827,334 and 20,650,455 shares issued and outstanding at December 31, 2008 and 2007, respectively
208,274 206,504
Paid-in-capital
234,385,063 233,722,593
Accumulated net investment loss
(1,912,061) (1,912,061)
Distributions in excess of net investment income
(1,758,877) (2,824,651)
Net realized loss on investments
(4,053,953) (3,171,365)
Net unrealized depreciation on interest rate swaps
(3,097,384) (762,365)
Net unrealized depreciation on investments
(43,653,892) (3,660,971)
TOTAL STOCKHOLDERS EQUITY
180,117,170 221,597,684
TOTAL LIABILITIES AND STOCKHOLDERS EQUITY
$ 354,262,646 $ 398,378,808
NET ASSET VALUE PER COMMON SHARE
$ 8.65 $ 10.73

See Notes to Consolidated Financial Statements

Explanation of Responses:

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Statements of Operations

	Year Ended December 31,		
	2008	**2007**	**2006**
INVESTMENT INCOME			
Interest and dividends:			
Non-control/non-affiliate investments	$ 29,261,759	$ 31,729,397	$ 25,011,993
Affiliate investments	8,504,451	4,947,294	375,716
Control investments	2,373,877	470,584	
Total interest and dividend income	40,140,087	37,147,275	25,387,709
Fees:			
Non-control/non-affiliate investments	809,113	1,080,929	260,289
Affiliate investments	432,435	93,419	9,887
Control investments	168,065	106,013	
Total fee income	1,409,613	1,280,361	270,176
Other investment income:			
Non-control/non-affiliate investments	300,076	534,901	848,449
Affiliate investments	307,245		
Control investments	142,383		
Total other investment income	749,704	534,901	848,449
Total Investment Income	42,299,404	38,962,537	26,506,334
EXPENSES			
Compensation expense	3,973,030	5,410,075	3,877,525
Interest expense	8,158,473	7,421,596	4,332,582
Professional fees	1,635,519	887,021	1,045,613
General and administrative expense	2,807,113	2,498,724	2,229,970
Total Expenses	16,574,135	16,217,416	11,485,690
Net Investment Income	25,725,269	22,745,121	15,020,644
NET REALIZED GAIN AND (LOSS) AND NET UNREALIZED APPRECIATION (DEPRECIATION)			
Net realized gain (loss) on investments non-control/non-affiliate investments	(990,993)	91,601	(3,262,966)
Net realized gain on investments affiliate investments	458,405		
Net realized loss on investments control investments	(350,000)		
	(22,894,683)	(4,620,406)	3,858,931

Net unrealized appreciation (depreciation) on investments non-control/non-affiliate investments			
Net unrealized depreciation on investments affiliate investments	(9,613,047)	(1,365,300)	(41,000)
Net unrealized appreciation (depreciation) on investments control investments	(7,485,191)	2,348,000	
Net unrealized appreciation (depreciation) on interest rate swaps	(2,335,019)	(775,326)	12,961
Net Realized Gain (Loss) and Net Unrealized Appreciation (Depreciation)	(43,210,528)	(4,321,431)	567,926
NET INCOME (LOSS)	$ (17,485,259)	$ 18,423,690	$ 15,588,570
Income (loss) per share, basic	$ (0.84)	$ 0.99	$ 1.10
Income (loss) per share, diluted	$ (0.84)	$ 0.98	$ 1.10
Weighted average shares outstanding, basic	20,713,540	18,670,904	14,145,200
Weighted average shares outstanding, diluted	20,713,540	18,830,213	14,237,952

See Notes to Consolidated Financial Statements

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Statements of Cash Flows

	Year Ended December 31,		
	2008	**2007**	**2006**
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income (loss)	$ (17,485,259)	$ 18,423,690	$ 15,588,570
Adjustments to reconcile net income (loss) to net cash provided by (used for) operating activities:			
Depreciation and amortization	606,606	411,860	456,289
Change in interest receivable	368,669	462,046	(1,353,525)
Net realized loss (gain) on sale of investments	882,588	(91,601)	3,262,966
Unrealized depreciation (appreciation) on investments	39,992,921	3,637,706	(3,817,931)
Unrealized depreciation (appreciation) on interest rate swaps	2,335,019	775,326	(12,961)
Payment-in-kind interest and dividends	(5,452,124)	(3,928,159)	(2,424,927)
Stock based compensation expense	757,783	675,822	505,785
Change in unearned income	(129,458)	986,413	152,200
Change in interest payable	(306,999)	297,415	463,375
Change in other assets	(86,612)	93,868	(9,663)
Change in accounts payable, accrued expenses and other	(1,565,092)	1,076,142	1,024,721
Net cash provided by operating activities	19,918,042	22,820,528	13,834,899
CASH FLOWS FROM INVESTING ACTIVITIES:			
Funded investments	(82,342,723)	(200,316,250)	(157,951,595)
Principal repayments on investments	95,018,988	67,332,023	37,627,269
Proceeds from sale of investments	14,384,813	5,466,351	3,642,634
Purchases of furniture and equipment	(6,295)	(47,832)	(269,436)
Net cash provided by (used for) investing activities	27,054,783	(127,565,708)	(116,951,128)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Borrowings	110,204,117	188,177,000	353,580,000
Repayments on borrowings	(112,504,117)	(121,657,000)	(276,850,000)
Deferred offering costs			(159,620)
Net proceeds from sale of common stock	(23,585)	60,517,044	36,652,098
Dividends paid	(26,290,394)	(20,217,670)	(10,885,371)
Decrease (increase) in restricted cash	(11,667,871)	(5,373,396)	2,692,522
Deferred financing costs	(1,030,972)	(122,990)	(73,598)
Net cash provided by (used for) financing activities	(41,312,822)	101,322,988	104,956,031
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	5,660,003	(3,422,192)	1,839,802
CASH AND CASH EQUIVALENTS AT:			

Beginning of year	789,451	4,211,643	2,371,841
End of year	$ 6,449,454	$ 789,451	$ 4,211,643
Supplemental information:			
Interest paid	$ 8,465,472	$ 7,124,181	$ 3,869,208
Non-cash investing activities:			
Conversion of debt to equity	$ 5,734,567	$	$
Non-cash financing activities:			
Dividends reinvested in common stock	$ 1,065,246	$ 2,212,996	$ 1,054,090
Dividends declared but not paid	$ 5,253,709	$ 6,814,650	$ 4,904,818

See Notes to Consolidated Financial Statements

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Statements of Changes in Net Assets

	Year Ended December 31,		
	2008	**2007**	**2006**
Operations:			
Net investment income	$ 25,725,269	$ 22,745,121	$ 15,020,644
Net realized gain (loss) on investments	(882,588)	91,601	(3,262,966)
Net unrealized appreciation (depreciation) on investments	(39,992,921)	(3,637,706)	3,817,931
Net unrealized appreciation (depreciation) on interest rate swaps	(2,335,019)	(775,326)	12,961
Net increase (decrease) in net assets from operations	(17,485,259)	18,423,690	15,588,570
Shareholder transactions:			
Distributions to stockholders from net investment income	(25,725,269)	(22,745,121)	(15,020,644)
Tax return of capital	(1,135,204)	(1,592,314)	(2,484,892)
Distributions in excess of net investment income	1,065,774	(3,063)	661,257
Net decrease in net assets from shareholder distributions	(25,794,699)	(24,340,498)	(16,844,279)
Capital share transactions:			
Issuance of common stock	(23,585)	60,517,045	36,652,098
Issuance of common stock under dividend reinvestment plan	1,065,246	2,212,996	1,054,090
Stock based compensation	757,783	675,822	505,785
Net increase in net assets from capital share transactions	1,799,444	63,405,863	38,211,973
Total increase (decrease) in net assets	(41,480,514)	57,489,055	36,956,264
Net assets at beginning of period	221,597,684	164,108,629	127,152,365
Net assets at end of period	$ 180,117,170	$ 221,597,684	$ 164,108,629
Net asset value per common share	$ 8.65	$ 10.73	$ 10.37
Common shares outstanding at end of period	20,827,334	20,650,455	15,821,994

See Notes to Consolidated Financial Statements

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments
December 31, 2008

Company(1) (Industry)	Company Description	Investment	Principal	Cost	Value
Control investments:					
Encore Legal Solutions, Inc.	Legal document management	Junior Secured Term Loan A (6.2%, Due 12/10)(2)(3)	$ 4,020,456	$ 4,007,366	$ 3,537,910
	services	Junior Secured Term Loan B (9.2%, Due 12/10)(2)(3)	7,390,687	7,355,975	6,492,888
(Printing & Publishing)		Common Stock(4)		5,159,567	326,900
Fischbein, LLC *(Machinery)*	Designer and manufacturer of	Senior Subordinated Debt (16.5%, Due 5/13)(2)(3)	3,492,760	3,471,147	3,540,987
	packaging equipment	Membership Interest Class A(4)		2,800,000	3,876,000
Nupla Corporation	Manufacturer and marketer of	Revolving Line of Credit (7.3%, Due 9/12)(3)	870,000	856,425	856,425
	professional high-grade	Senior Secured Term Loan A (8.0%, Due 9/12)(3)	5,354,688	5,315,741	5,166,852
(Home & Office Furnishings, Housewares & Durable Consumer Products)	fiberglass- handled striking and digging tools	Senior Subordinated Debt (15.0%, Due 3/13)(2)(3)	3,123,084	3,102,059	2,192,375
		Preferred Stock Class A(2)		550,584	15,900
		Preferred Stock Class B(2)		1,101,001	1,101,500
		Common Stock(4)		80,000	
Sidump r Trailer Company, Inc.	Manufacturer of side dump	Revolving Line of Credit (7.3%, Due	950,000	934,432	934,432

		1/11)(3)			
	trailers	Senior Secured Term Loan A (7.3%, Due 1/11)(3)	2,047,500	2,036,677	2,036,677
(Automobile)		Senior Secured Term Loan B (8.8%, Due 1/11)(3)	2,320,625	2,301,926	
		Senior Secured Term Loan C (16.5%, Due 7/11)(2)(3)	2,406,374	2,253,829	
		Senior Secured Term Loan D (7.3%, Due 7/11)	1,700,000	1,700,000	348,200
		Preferred Stock(2)		165,730	
		Common Stock(4)		25	
Total Control investments (represents 9.4% of total investments at fair value)				**$ 43,192,484**	**$ 30,427,046**
Affiliate investments:					
	Supplier of spiritwear and	Senior Secured Term Loan A (8.0%, Due 9/13)(3)	5,328,125	5,273,766	5,273,766
Boxercraft Incorporated	campus apparel	Senior Secured Term Loan B (8.5%, Due 9/13)(3)	5,486,250	5,429,567	5,429,567
(Textiles & Leather)		Senior Subordinated Debt (16.8%, Due 3/14)(2)(3)	6,591,375	6,524,347	6,524,347
		Preferred Stock(4)		1,029,722	849,500
		Common Stock(4)		100	
	Manufacturer and distributor of	Revolving Line of Credit (5.0%, Due 1/12)(3)	1,000,000	986,840	986,840
KTPS Holdings, LLC	specialty pet products	Senior Secured Term Loan A (5.1%, Due 1/12)(3)	4,996,875	4,950,978	4,951,005
(Textiles & Leather)		Senior Secured Term Loan B (12.0%, Due 1/12)(3)	465,000	460,265	460,265
			4,207,806	4,172,076	4,172,076

		Junior Secured Term Loan (15.0%, Due 3/12)(2)(3)			
		Membership Interest Class A(4)		730,020	721,200
		Membership Interest Common(4)			
Smart, LLC(5) *(Diversified/*	Provider of tuition management	Membership Interest Class B(4)		1,280,403	311,500
	services	Membership Interest Class D(4)		290,333	312,000
Conglomerate Service)					
	Manufacturer of	Senior Secured Term Loan A (5.9%, Due 12/13)(3)	4,500,000	4,445,614	4,282,314
Sport Helmets Holdings, LLC(5)	protective				
	headgear	Senior Secured Term Loan B (6.4%, Due 12/13)(3)	7,500,000	7,400,148	7,128,048
(Personal & Nondurable		Senior Subordinated Debt - Series A (15.0%, Due 6/14)(2)(3)	7,000,000	6,896,866	6,896,866
Consumer Products)		Senior Subordinated Debt - Series B (15.0%, Due 6/14)(2)	1,258,488	1,258,488	1,258,488
		Common Stock(4)		2,000,000	1,899,300
Total Affiliate investments (represents 16.0% of total investments at fair value)				**$ 53,129,533**	**$ 51,457,082**
Non-control/non-affiliate investments:					
	Distributor of specialty	Senior Secured Term Loan A (11.5%, Due 6/11)(3)	$ 8,103,125	$ 8,056,102	$ 8,056,102
ADAPCO, Inc. *(Ecological)*	chemicals				
	and contract application services	Common Stock(4)		500,000	108,800
Aircraft Fasteners International,	Distributor of fasteners and	Senior Secured Term Loan (4.1%, Due	5,528,000	5,446,932	5,208,632

		11/12)(3)			
	related hardware for use in	Junior Secured Term Loan (14.0%, Due 5/13)(2)(3)	5,306,249	5,242,761	5,242,761
LLC *(Machinery)*	aerospace, electronics and defense industries	Convertible Preferred Stock(2)		273,397	503,600
Allied Defense Group, Inc. *(Aerospace & Defense)*	Diversified defense company	Common Stock(4)		463,168	173,600
Arrowhead General Insurance Agency, Inc.(6) *(Insurance)*	Insurance agency and program specialist	Junior Secured Term Loan (7.7%, Due 2/13)(3)	5,000,000	5,000,000	4,048,200
Aylward Enterprises, LLC(5)	Manufacturer of packaging	Revolving Line of Credit (10.0%, Due 2/12)(3)	$ 3,700,000	$ 3,647,158	$ 3,647,158
	equipment	Senior Secured Term Loan A (11.6%, Due 2/12)(3)	8,085,938	7,999,958	3,572,320
(Machinery)		Senior Subordinated Debt (22.0%, Due 8/12)(2)	7,328,591	6,747,301	
		Subordinated Member Note (8.0%, Due 2/13)(2)	151,527	148,491	
		Membership Interest(4)		1,250,000	
Borga, Inc. *(Mining, Steel, Iron &*	Manufacturer of pre-fabricated	Revolving Line of Credit (4.9%, Due 5/10)(3)	800,000	793,950	793,950
	metal building systems	Senior Secured Term Loan A (5.4%, Due 5/09)(3)	328,116	325,903	325,903
Nonprecious Metals)		Senior Secured Term Loan B (8.4%, Due 5/10)(3)	1,635,341	1,617,095	1,617,095
			8,117,266	8,074,916	8,074,916

Senior Secured Term Loan C (16.0%, Due 5/10)(2)(3)	
Common Stock Warrants(4)	14,805

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments (Continued)

Company(1) (Industry)	Company Description	Investment	Principal	Cost	Value
Caleel + Hayden, LLC(5)	Provider of proprietary branded	Junior Secured Term Loan B (4.7%, Due 11/11)(3)	10,771,562	10,668,072	10,668,072
(Personal & Nondurable Consumer Products)	professional skincare and cosmetic products to physicians and spa communities	Senior Subordinated Debt (14.5%, Due 11/12)(3)	6,250,000	6,190,008	6,252,608
		Common Stock(4)		750,000	862,100
CDW Corporation(6) *(Electronics)*	Direct marketer of computer and peripheral equipment	Senior Secured Term Loan (6.7%, Due 10/14)	2,000,000	1,780,924	920,000
CS Operating, LLC(5) *(Buildings & Real Estate)*	Provider of maintenance, repair and replacement of HVAC, electrical, plumbing, and foundation repair	Revolving Line of Credit (6.8%, Due 1/13)(3)	200,000	194,564	194,564
		Senior Secured Term Loan A (6.6%, Due 7/12)(3)	1,855,064	1,832,122	1,832,122
		Senior Subordinated Debt (16.5%, Due 1/13)(2)(3)	2,616,863	2,586,496	2,586,496
Copernicus Group *(Healthcare, Education & Childcare)*	Provider of clinical trial review services	Revolving Line of Credit (8.8%, Due 10/13)(3)	150,000	130,753	130,753
		Senior Secured Term Loan A (9.0%, Due 10/13)(3)	8,043,750	7,917,470	7,917,470
		Senior Subordinated Debt (16.0%, Due	12,112,000	11,926,408	11,926,408

		4/14)(3)			
		Preferred Stock Series A		1,000,000	1,033,000
Copperhead Chemical Company, Inc. *(Chemicals, Plastics & Rubber)*	Manufacturer of bulk pharmaceuticals	Senior Subordinated Debt (21.0%, Due 1/13)(2)(3)	3,693,195	3,664,655	3,664,655
Custom Direct, Inc.(6) *(Printing & Publishing)*	Direct marketer of checks and other financial products and services	Senior Secured Term Loan (4.2%, Due 12/13)(3)	1,847,386	1,603,118	1,330,100
		Junior Secured Term Loan (7.5%, Due 12/14)(3)	2,000,000	2,000,000	880,000
Dover Saddlery, Inc. *(Retail Stores)*	Equestrian products catalog retailer	Common Stock(4)		148,200	41,500
Employbridge Holding Company(5)(6) *(Personal, Food & Miscellaneous Services)*	A provider of specialized staffing services	Junior Secured Term Loan (10.4%, Due 10/13)(3)	3,000,000	3,000,000	1,050,000
EXL Acquisition Corp. *(Electronics)*	Manufacturer of lab testing supplies	Senior Secured Term Loan A (6.6%, Due 3/11)(3)	3,278,998	3,258,757	3,072,159
		Senior Secured Term Loan B (6.9%, Due 3/12)(3)	4,499,911	4,452,650	4,196,539
		Senior Secured Term Loan C (7.4%, Due 3/12)(3)	2,775,439	2,737,602	2,579,563
		Senior Secured Term Loan D (15.0%, Due 3/12)(3)	6,557,997	6,501,063	6,501,063

		Common Stock Class A(4)		2,475	269,000
		Common Stock Class B(2)		279,222	281,900
Fairchild Industrial Products, Co. *(Electronics)*	Manufacturer of industrial controls and power transmission products	Senior Secured Term Loan A (5.8%, Due 7/10)(3)	1,690,402	1,678,459	1,652,157
		Senior Secured Term Loan B (7.7%, Due 1/11)(3)	4,477,500	4,448,975	4,379,475
		Senior Subordinated Debt (14.8%, Due 7/11)(3)	5,460,000	5,418,066	5,418,066
		Preferred Stock Class A(2)		353,573	353,573
		Common Stock Class B(4)		121,598	410,000
Hudson Products Holdings, Inc.(6) *(Mining, Steel, Iron & Nonprecious Metals)*	Manufactures and designs air-cooled heat exchanger equipment	Senior Secured Term Loan (8.0%, Due 8/15)(3)	7,481,250	7,265,876	6,433,900
Impact Products, LLC *(Machinery)*	Distributor of janitorial supplies	Junior Secured Term Loan (7.0%, Due 9/12)(3)	8,893,750	8,839,775	8,418,625
		Senior Subordinated Debt (15.0%, Due 9/12)(3)	5,547,993	5,517,791	5,517,791
Keltner Enterprises, LLC(5) *(Oil & Gas)*	Distributor of automotive oils, chemicals and parts	Senior Subordinated Debt (14.0%, Due 12/11)(3)	3,850,000	3,840,677	3,840,677
Label Corp Holdings, Inc.(6) *(Printing & Publishing)*	Manufacturer of prime labels	Senior Secured Term Loan (8.0%, Due 8/14)(3)	6,483,750	6,176,385	5,592,200

L.A. Spas, Inc. *(Chemicals, Plastics & Rubber)*	Manufacturer of above ground spas	Revolving Line of Credit (8.8%, Due 12/09)(3)	1,000,000	990,794	990,794
		Senior Secured Term Loan (8.8%, Due 12/09)(3)	4,165,430	4,092,364	4,092,364
		Senior Subordinated Debt (17.5%, Due 1/10)(2)(3)	8,011,600	7,907,534	599,193
		Common Stock(4)		100	
		Common Stock Warrants(4)		3,963	
LHC Holdings Corp. *(Healthcare, Education & Childcare)*	Provider of home healthcare services	Senior Secured Term Loan A (4.5%, Due 11/12)(3)	4,100,403	4,057,774	3,927,171
		Senior Subordinated Debt (14.5%, Due 5/13)(3)	4,565,000	4,517,936	4,517,936
		Membership Interest(4)		125,000	159,500
Mac & Massey Holdings, LLC *(Grocery)*	Broker and distributor of ingredients to manufacturers of food products	Senior Subordinated Debt (16.5%, Due 2/13)(2)(3)	7,942,142	7,913,369	7,913,369
		Common Stock(4)		242,820	365,200
Northwestern Management Services, LLC *(Healthcare, Education & Childcare)*	Provider of dental services	Senior Secured Term Loan A (4.5%, Due 12/12)(3)	5,580,000	5,531,693	5,531,693
		Senior Secured Term Loan B (5.0%, Due 12/12)(3)	1,237,500	1,226,436	1,226,436
		Junior Secured Term Loan (15.0%, Due 6/13)(2)(3)	2,839,310	2,815,535	2,815,535
		Common Stock(4)		500,000	315,200

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments (Continued)

Company(1) (Industry)	Company Description	Investment	Principal	Cost	Value
Prince Mineral Company, Inc. *(Metals & Minerals)*	Manufacturer of pigments	Junior Secured Term Loan (5.5%, Due 12/12)(3)	11,275,000	11,131,129	10,750,129
		Senior Subordinated Debt (14.0%, Due 7/13)(2)(3)	12,034,071	11,918,351	11,703,780
Quartermaster, Inc. *(Retail Stores)*	Retailer of uniforms and tactical equipment to law enforcement and security professionals	Revolving Line of Credit (6.7%, Due 12/10)(3)	1,750,000	1,731,275	1,731,275
		Senior Secured Term Loan A (6.8%, Due 12/10)(3)	3,225,250	3,197,369	3,197,369
		Senior Secured Term Loan B (8.1%, Due 12/10)(3)	2,543,750	2,526,377	2,526,377
		Senior Secured Term Loan C (15.0%, Due 12/11)(2)(3)	3,399,818	3,375,763	3,375,763
R-O-M Corporation *(Automobile)*	Manufacturer of doors, ramps and bulk heads for fire trucks and food transportation	Senior Secured Term Loan A (3.4%, Due 2/13)(3)	6,640,000	6,582,627	6,266,127
		Senior Secured Term Loan B (4.9%, Due 5/13)(3)	8,379,000	8,290,058	7,890,766
		Senior Subordinated Debt (15.0%, Due	9,100,000	9,011,070	9,011,070

8/13)(3)

Total Non-control/non-affiliate investments (represents 74.6% of total investments at fair value)	**$ 269,577,008**	**$ 240,486,620**
Total Investments	**$ 365,899,025**	**$ 322,370,748**

(1) Affiliate investments are generally defined under the Investment Company Act of 1940, as amended (the 1940 Act), as companies in which the Company owns at least 5% but not more than 25% of the voting securities of the company. Control investments are generally defined under the 1940 Act as companies in which the Company owns more than 25% of the voting securities of the company or has greater than 50% representation on its board.

(2) Amount includes payment-in-kind (PIK) interest or dividends.

(3) Pledged as collateral under the Company s Securitization Facility. See Note 6 to Consolidated Financial Statements.

(4) Non-income producing.

(5) Some of the investments listed are issued by an affiliate of the listed portfolio company.

(6) Syndicated investment which has been originated by another financial institution and broadly distributed.

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments
December 31, 2007

Company(1) (Industry)	Company Description	Investment	Principal	Cost	Value
Control investments:					
Fischbein, LLC *(Machinery)*	Designer and manufacturer of packaging equipment	Senior Subordinated Debt (16.5%, Due 5/13)(2)(3)	$ 4,211,988	$ 4,180,389	$ 4,180,389
		Membership Interest Class A(4)		2,800,000	5,148,000
Total Control investments (represents 2.4% of total investments at fair value)				$ 6,980,389	$ 9,328,389
Affiliate investments:					
Aylward Enterprises, LLC(5) *(Machinery)*	Manufacturer of packaging equipment	Revolving Line of Credit (8.7%, Due 2/12)(3)	$ 3,700,000	$ 3,630,012	$ 3,630,012
		Senior Secured Term Loan A (9.5%, Due 2/12)(3)	8,292,188	8,162,724	8,162,724
		Senior Subordinated Debt (14.5%, Due 8/12)(2)	6,424,702	6,335,464	6,335,464
		Membership Interest(4)		1,250,000	
KTPS Holdings, LLC *(Textiles & Leather)*	Manufacturer and distributor of specialty pet products	Revolving Line of Credit (8.2%, Due 1/12)(3)	300,000	282,562	282,562
		Senior Secured Term Loan A (8.4%, Due 1/12)(3)	6,012,500	5,941,886	5,941,886

		Senior Secured Term Loan B (12.0%, Due 1/12)(3)	1,985,000	1,960,952	1,960,952
		Junior Secured Term Loan (15.0%, Due 3/12)(2)(3)	4,081,878	4,035,122	4,035,122
		Membership Interest Class A(4)		730,020	769,000
		Membership Interest Common(4)		19,980	87,900
Nupla Corporation *(Home & Office Furnishings, Housewares & Durable Consumer Products)*	Manufacturer and marketer of professional high-grade fiberglass- handled striking and digging tools	Revolving Line of Credit (9.5%, Due 9/12)(3)	550,000	532,725	532,725
		Senior Secured Term Loan A (8.8%, Due 9/12)(3)	5,678,125	5,628,411	5,628,411
		Senior Subordinated Debt (14.0%, Due 3/13)(2)	3,019,688	2,993,614	2,993,614
		Preferred Stock(2)		493,427	493,427
		Common Stock(4)		25,000	38,300
Smart, LLC(5) *(Diversified/Conglomerate Service)*	Provider of tuition management services	Revolving Line of Credit (12.3%, Due 8/11)(3)	870,000	822,799	822,799
		Senior Secured Term Loan A (12.3%, Due 8/11)(3)	3,862,500	3,817,733	3,817,733
		Senior Secured Term Loan B (19.0%, Due 2/12)(2)(3)	3,668,965	3,626,308	3,626,308
		Convertible Subordinated Note (22.0%, Due 8/12)	250,000	250,000	250,000
		Membership Interest Class B(4)		1,000,000	729,100
Sport Helmets Holdings, LLC(5) *(Personal & Nondurable Consumer Products)*	Manufacturer of protective headgear	Senior Secured Term Loan A (9.0%, Due 12/13)	4,500,000	4,431,440	4,431,440
		Senior Secured Term Loan B (9.5%, Due 12/13)	7,500,000	7,385,336	7,385,336
			8,011,333	7,889,250	7,889,250

		Senior Subordinated Debt (15.0%, Due 6/14)(2)			
		Common Stock(4)		2,000,000	1,901,500
Vince & Associates Clinical Research, Inc. *(Healthcare, Education & Childcare)*	Provider of clinical testing services	Senior Secured Term Loan (10.0%, Due 11/12)(2)(3)	7,500,000	7,391,657	7,391,657
		Senior Subordinated Debt (15.0%, Due 5/13)(2)	5,521,561	5,441,483	5,441,483
		Convertible Preferred Stock(4)		500,000	592,900
Total Affiliate investments (represents 22.1% of total investments at fair value)				**$ 86,577,905**	**$ 85,171,605**
Non-control/non-affiliate investments:					
ADAPCO, Inc. *(Ecological)*	Distributor of specialty chemicals and contract application services	Revolving Line of Credit (9.0%, Due 7/11)(3)	$ 2,200,000	$ 2,177,697	$ 2,177,697
		Senior Secured Term Loan A (10.5%, Due 6/11)(3)	13,016,250	12,916,093	12,216,143
		Common Stock(4)		500,000	
Aircraft Fasteners International, LLC *(Machinery)*	Distributor of fasteners and related hardware for use in aerospace, electronics and defense industries	Senior Secured Term Loan (8.3%, Due 11/12)(3)	6,800,000	6,697,869	6,697,869
		Junior Secured Term Loan (14.0%, Due 5/13)(2)(3)	5,200,000	5,121,815	5,121,815
		Convertible Preferred Stock(2)		253,342	341,800
Allied Defense Group, Inc. *(Aerospace & Defense)*	Diversified defense company	Common Stock(4)		463,168	161,600

Arrowhead General Insurance Agency, Inc.(6) *(Insurance)*	Insurance agency and program specialist	Junior Secured Term Loan (12.1%, Due 2/13)(3)	5,000,000	5,000,000	4,500,000
Borga, Inc. *(Mining, Steel, Iron & Nonprecious Metals)*	Manufacturer of pre-fabricated metal building systems	Senior Secured Term Loan A (8.8%, Due 3/09)(3)	1,321,000	1,309,581	1,309,581
		Senior Secured Term Loan B (11.8%, Due 5/10)(3)	1,785,250	1,755,679	1,755,679
		Senior Secured Term Loan C (16.0%, Due 5/10)(2)(3)	7,794,323	7,720,404	7,720,404
		Common Stock Warrants(4)		10,746	
Caleel + Hayden, LLC(5) *(Personal & Nondurable Consumer Products)*	Provider of proprietary branded professional skincare and cosmetic products to physicians and spa communities	Junior Secured Term Loan B (9.6%, Due 11/11)(3)	10,879,062	10,745,564	10,745,564
		Senior Subordinated Debt (14.5%, Due 11/12)(3)	6,250,000	6,174,425	6,174,425
		Common Stock(4)		750,000	1,058,600
Cheeseworks, Inc. *(Grocery)*	Distributor of specialty cheese and food products	Revolving Line of Credit (7.6%, Due 6/11)(3)	5,080,219	4,984,386	4,984,386
		Senior Secured Term Loan (10.7%, Due 6/11)(3)	10,648,560	10,512,576	10,512,576
CS Operating, LLC(5) *(Buildings & Real Estate)*	Provider of maintenance, repair and replacement of HVAC, electrical, plumbing, and foundation repair	Senior Secured Term Loan A (9.1%, Due 7/12)(3)	2,325,000	2,290,500	2,290,500
		Senior Subordinated Debt (14.5%, Due 1/13)(2)(3)	2,527,328	2,490,326	2,490,326

Copperhead Chemical Company, Inc. *(Chemicals, Plastics & Rubber)*	Manufacturer of bulk pharmaceuticals	Senior Subordinated Debt (15.3%, Due 1/13)(2)(3)	3,540,943	3,505,378	3,505,378
Custom Direct, Inc.(6) *(Printing & Publishing)*	Direct marketer of checks and other financial products and services	Junior Secured Term Loan (10.8%, Due 12/14)(3)	2,000,000	2,000,000	1,750,000

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments (Continued)

Company(1) (Industry)	Company Description	Investment	Principal	Cost	Value
Dover Saddlery, Inc. *(Retail Stores)*	Equestrian products catalog retailer	Common Stock(4)		148,200	129,200
Eight O Clock Coffee Company(6) *(Beverage, Food & Tobacco)*	Manufacturer, distributor, and marketer of coffee	Junior Secured Term Loan (11.4%, Due 7/13)(3)	9,000,000	9,000,000	9,000,000
Employbridge Holding Company(5)(6) *(Personal, Food & Miscellaneous Services)*	A provider of specialized staffing services	Junior Secured Term Loan (11.8%, Due 10/13)(3)	3,000,000	3,000,000	2,910,000
Encore Legal Solutions, Inc. *(Printing & Publishing)*	Legal document management services	Junior Secured Term Loan A (10.7%, Due 6/10)(2)(3)	3,949,437	3,925,802	3,925,802
		Junior Secured Term Loan B (10.8%, Due 6/10)(2)(3)	7,193,143	7,138,192	7,138,192
		Senior Subordinated Debt (15.0%, Due 6/10)(2)(3)	5,926,861	5,889,187	3,489,226
		Common Stock Warrants(4)		219,791	
EXL Acquisition Corp.	Manufacturer of lab testing	Senior Secured Term Loan A (8.4%, Due	4,800,000	4,761,933	4,761,933

		3/11)(3)			
	supplies	Senior Secured Term Loan B (8.9%, Due	4,851,840	4,792,326	4,792,326
(Electronics)		3/12)(3)			
		Senior Secured Term Loan C (9.4%, Due	2,992,500	2,944,981	2,944,981
		3/12)(3)			
		Senior Secured Term Loan D (15.0%, Due	7,000,000	6,925,241	6,925,241
		3/12)(3)			
		Common Stock Class A(4)		2,475	123,900
		Common Stock Class B(2)		254,057	255,325
	Manufacturer of	Senior Secured Term	5,580,000	5,531,331	5,531,331
Fairchild Industrial Products, Co.	industrial	Loan A (8.3%, Due 7/10)(3)			
	controls and power transmission	Senior Secured Term Loan B (10.0%, Due	9,325,000	9,239,973	9,239,973
(Electronics)		7/11)(3)			
	products	Senior Subordinated Debt (14.8%, Due 7/11)	5,460,000	5,401,721	5,401,721
		Preferred Stock Class A(2)		327,879	327,879
		Common Stock Class B(4)		121,598	293,200
	Distributor of	Junior Secured Term	8,968,750	8,903,106	8,903,106
	janitorial supplies	Loan (9.5%, Due			
Impact Products, LLC		9/12)(3)			
		Senior Subordinated Debt (13.5%, Due	5,547,996	5,509,594	5,509,594
(Machinery)		9/12)(2)(3)			
	Manufacturer of	Junior Secured Term	4,312,500	4,292,854	4,292,854
	coin operated	Loan A (9.0%, Due			
Innovative Concepts in		2/11)(3)			
	games	Junior Secured Term Loan B (9.5%, Due	3,537,000	3,519,896	3,519,896
Entertainment, Inc.		2/11)(3)			
		Junior Secured Term Loan C (13.0%, Due	3,900,000	3,881,940	3,881,940
(Personal & Nondurable Consumer Products)		8/11)(3)			

Keltner Enterprises, LLC(5) *(Oil & Gas)*	Distributor of automotive oils, chemicals and parts	Senior Subordinated Debt (14.0%, Due 12/11)(3)	3,850,000	3,837,555	3,837,555
L.A. Spas, Inc. *(Chemicals, Plastics & Rubber)*	Manufacturer of above ground spas	Senior Subordinated Debt (15.5%, Due 1/10)(2)(3)	7,271,249	7,225,464	7,225,464
		Common Stock Warrants(4)		3,009	
LHC Holdings Corp. *(Healthcare, Education & Childcare)*	Provider of home healthcare services	Revolving Line of Credit (8.8%, Due 11/12)(3)	300,000	287,369	287,369
		Senior Secured Term Loan A (8.8%, Due 11/12)(3)	5,100,000	5,035,888	5,035,888
		Senior Subordinated Debt (14.5%, Due 5/13)	4,565,000	4,507,250	4,507,250
		Membership Interest(4)		125,000	120,500
Mac & Massey Holdings, LLC *(Grocery)*	Broker and distributor of ingredients to manufacturers of food products	Senior Subordinated Debt (16.5%, Due 2/13)(2)	7,438,280	7,402,496	7,402,496
		Common Stock(4)		250,000	388,200
Metrologic Instruments, Inc.(6) *(Electronics)*	Manufacturer of imaging and scanning equipment	Senior Secured Term Loan (7.8%, Due 4/14)(3)	992,500	992,500	942,900
		Junior Secured Term Loan (11.1%, Due 12/15)	1,000,000	1,000,000	930,000
Nice-Pak Products, Inc.(6)	Manufacturer of pre-moistened	Senior Secured Term Loan (8.5%, Due 6/14)(3)	2,985,000	2,985,000	2,895,500

(Containers, Packaging & Glass)	wipes				
Northwestern Management Services, LLC *(Healthcare, Education & Childcare)*	Provider of dental services	Senior Secured Term Loan A (8.9%, Due 12/12)(3)	6,000,000	5,936,612	5,936,612
		Senior Secured Term Loan B (9.4%, Due 12/12)(3)	1,250,000	1,236,744	1,236,744
		Junior Secured Term Loan (15.0%, Due 6/13)(2)	2,754,125	2,724,995	2,724,995
		Common Stock(4)		500,000	504,400
Prince Mineral Company, Inc. *(Metals & Minerals)*	Manufacturer of pigments	Junior Secured Term Loan (9.9%, Due 12/12)(3)	11,375,000	11,203,941	11,203,941
		Senior Subordinated Debt (14.0%, Due 7/13)(2)(3)	11,913,159	11,768,249	11,768,249
Quartermaster, Inc. *(Retail Stores)*	Retailer of uniforms and tactical equipment to law enforcement and security professionals	Revolving Line of Credit (9.5%, Due 12/10)(3)	500,000	471,887	471,887
		Senior Secured Term Loan A (9.4%, Due 12/10)(3)	4,276,250	4,228,116	4,228,116
		Senior Secured Term Loan B (10.6%, Due 12/10)(3)	2,568,750	2,542,846	2,542,846
		Senior Secured Term Loan C (15.0%, Due 12/11)(2)(3)	3,298,069	3,265,862	3,265,862
R-O-M Corporation *(Automobile)*	Manufacturer of doors, ramps and bulk heads for fire trucks and food transportation	Senior Secured Term Loan A (8.0%, Due 2/13)(3)	7,440,000	7,359,023	7,359,023
		Senior Secured Term Loan B (9.3%, Due 5/13)(3)	8,464,500	8,359,596	8,359,596
		Senior Subordinated Debt (15.0%, Due 8/13)(2)	9,100,000	8,991,761	8,991,761

Sidump r Trailer Company, Inc.	Manufacturer of side dump trailers	Revolving Line of Credit (9.8%, Due 1/11)(3)	1,675,000	1,651,732	1,651,732
		Senior Secured Term Loan A (8.5%, Due 1/11)(3)	2,047,500	2,028,320	2,028,320
(Automobile)		Senior Secured Term Loan B (11.5%, Due 1/11)(3)	2,320,625	2,294,336	2,294,336
		Senior Secured Term Loan C (15.0%, Due 7/11)(2)(3)	3,230,074	3,197,254	3,197,254
		Senior Subordinated Debt (12.0%, Due 1/12)(3)	75,000	75,000	75,000
		Preferred Stock(2)		87,271	
		Common Stock(4)		25	
Total Non-control/non-affiliate investments (represents 75.5% of total investments at fair value)				$ 294,686,727	$ 290,225,759
Total Investments				**$ 388,245,021**	**$ 384,725,753**

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PATRIOT CAPITAL FUNDING, INC.

Consolidated Schedule of Investments (Continued)

(1) Affiliate investments are generally defined under the Investment Company Act of 1940, as amended (the 1940 Act), as companies in which the Company owns at least 5% but not more than 25% of the voting securities of the company. Control investments are generally defined under the 1940 Act as companies in which the Company owns more than 25% of the voting securities of the company or has greater than 50% representation on its board.

(2) Amount includes payment-in-kind (PIK) interest or dividends.

(3) Pledged as collateral under the Company s Securitization Facility. See Note 6 to Consolidated Financial Statements.

(4) Non-income producing.

(5) Some of the investments listed are issued by an affiliate of the listed portfolio company.

(6) Syndicated investment which has been originated by another financial institution and broadly distributed.

See Notes to Consolidated Financial Statements

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements

Note 1. Organization

Patriot Capital Funding, Inc. (the Company) is a specialty finance company that provides customized financing solutions to small- to mid-sized companies. The Company typically invests in companies with annual revenues between $10 million and $100 million, and companies which operate in diverse industry sectors. Investments usually take the form of senior secured loans, junior secured loans and subordinated debt investments which may contain equity or equity-related instruments. The Company also offers one-stop financing, which typically includes a revolving credit line, one or more senior secured term loans and a subordinated debt investment.

The Company has elected to be treated as a business development company under the Investment Company Act of 1940, as amended (the 1940 Act). In addition, the Company has also previously elected to be treated as a regulated investment company (RIC) under the Internal Revenue Code of 1986, as amended (the Code).

Note 2. Going Concern

A fundamental principle of the preparation of financial statements in accordance with accounting principles generally accepted in the United States is the assumption that an entity will continue in existence as a going concern, which contemplates continuity of operations and the realization of assets and settlement of liabilities occurring in the ordinary course of business. This principle is applicable to all entities except for entities in liquidation or entities for which liquidation appears imminent. In accordance with this requirement, the Company s policy is to prepare its consolidated financial statements on a going concern basis unless it intends to liquidate or has no other alternative but to liquidate. On April 11, 2009, the liquidity facility supporting the Company s second amended and restated securitization revolving credit facility will expire if not renewed prior to such time. The Company is currently negotiating the renewal of the liquidity facility with certain liquidity banks. In the event that the liquidity banks do not renew the liquidity facility, the terms of the second amended and restated securitization revolving credit facility require that all principal, interest and fees collected from the debt investments pledged under the facility must be used to pay down amounts outstanding under the facility by April 11, 2011.

Because substantially all of the Company s debt investments are pledged under the second amended and restated securitization revolving credit facility, the Company cannot provide any assurance that it would have sufficient cash and liquid assets to fund normal operations and dividend distributions to stockholders during the period of time when it is required to repay amounts outstanding under the second amended and restated securitization revolving credit facility when such amounts became due. As a result, the Company may be required to severely limit or otherwise cease making distributions to its stockholders and curtail or cease new investment activities. In addition, the Company may be required to sell a portion of its investments to satisfy its obligation to repay such outstanding principal amount prior to April 11, 2011 and its ability to continue as a going concern may be impacted. The Company s consolidated financial statements do not reflect any adjustments that might result from the outcome of this uncertainty.

If the liquidity facility is not renewed, the Company believes that it may be able to negotiate an arrangement with the lenders of the second amended and restated securitization revolving credit facility for repayment terms that do not require the Company to use all principal, interest and fees collected from the debt investments secured by the facility to pay down amounts outstanding thereunder, however, the Company cannot provide any assurance that it will be able to do so. As a result, if the Company was unable to (i) renew the liquidity facility supporting the Company s second amended and restated securitization revolving credit facility or (ii) negotiate an arrangement with the lenders of the second amended and restated securitization revolving credit facility for repayment terms that do not require the

Company to use all principal, interest and fees collected from the debt investments secured by the facility to pay down amounts outstanding thereunder there would be a significant adverse impact on the Company s financial position and operating results.

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

Note 3. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying financial statements reflect the consolidated accounts of the Company and its special purpose financing subsidiary, Patriot Capital Funding, LLC I, (see Note 6) with all significant intercompany balances eliminated. The financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and pursuant to the requirements for reporting on Form 10-K and Regulation S-X. The financial results of the Company s portfolio investments are not consolidated in the Company s financial statements.

Use of Estimates

The preparation of financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The most significant estimates related to the valuation of the Company s investments. Actual results may differ from those estimates.

Cash and Cash Equivalents

Cash and cash equivalents consist of demand deposits and highly liquid investments with original maturities of three months or less. Cash equivalents are carried at cost which approximates fair value.

Restricted Cash

Restricted cash at December 31, 2008 and 2007, consisted of cash held in an operating and money market account, pursuant to the Company s agreement with its lender.

Concentration of Credit Risk

The Company places its cash and cash equivalents with financial institutions and, at times, cash held in checking accounts may exceed the Federal Deposit Insurance Corporation insured limit.

Investment Valuation

Investments are recorded at fair value with changes in value reflected in operations in unrealized appreciation (depreciation) of investments. Effective January 1, 2008, the Company adopted *Statement of Financial Standards No. 157 Fair Value Measurements*, or SFAS 157. Under SFAS 157, we principally utilize the market approach to estimate the fair value of our equity investments where there is not a readily available market and we also utilize the income approach to estimate the fair value of our debt investments where there is not a readily available market. Under the market approach, we estimate the enterprise value of the portfolio companies in which we invest. There is no one methodology to estimate enterprise value and, in fact, for any one portfolio company, enterprise value is best expressed as a range of fair values, from which we derive a single estimate of enterprise value. To estimate the enterprise value of a portfolio company, we analyze various factors, including the portfolio company s historical and projected financial results. We generally require portfolio companies to provide annual audited and quarterly and

monthly unaudited financial statements, as well as annual projections for the upcoming fiscal year. Typically, private companies are valued based on multiples of EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization), cash flows, net income, revenues, or in limited cases, book value.

Under the income approach, we generally prepare and analyze discounted cash flow models based on our projections of the future free cash flows of the business. We also use bond yield models to determine the present value of the future cash flow streams of our debt investments. We review various sources of

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

transactional data, including private mergers and acquisitions involving debt investments with similar characteristics, and assess the information in the valuation process.

Duff & Phelps, LLC, an independent valuation firm (Duff & Phelps), provided third party valuation consulting services to the Company which consisted of certain limited procedures that the Company engaged them to perform. At December 31, 2008 and 2007, the Company asked Duff & Phelps to perform the limited procedures on certain investments in its portfolio. The Company s Board of Directors is solely responsible for the valuation of the Company s portfolio investments at fair value as determined in good faith pursuant to the Company s valuation policy and consistently applied valuation process.

Property, Equipment and Leasehold Improvements

Property, equipment and leasehold improvements are included in other assets and are carried at cost and are depreciated using the straight-line method over the estimated useful lives of the related assets up to five years and over the shorter of the economic life or the term of the lease for leasehold improvements.

	2008	2007
Beginning PIK balance	$ 4,714,356	$ 2,891,565
PIK interest and dividends earned during the year	5,452,124	3,928,159
PIK conversion to equity	(1,519,567)	
Payments received during the year	(2,041,719)	(2,105,368)
Ending PIK balance	$ 6,605,194	$ 4,714,356

To qualify for the federal income tax benefits applicable to RICs (see Accounting Policy Note on Federal Income Taxes), this non-cash source of income is included in the income that must be paid out to stockholders in the form of dividends, even though the Company has not yet collected the cash relating to such income.

Realized Gain or Loss and Unrealized Appreciation or Depreciation of Investments

Realized gain or loss is recorded at the disposition of an investment and is the difference between the net proceeds from the sale and the cost basis of the investment using the specific identification method. Unrealized appreciation or depreciation reflects the difference between the valuation of the investments and the cost basis of the investments.

Stock Compensation Plans

The Company has stock-based employee compensation plans, see Note 7. The Company accounts for its stock-based compensation under Statement of Financial Accounting Standards (SFAS) No. 123R, Share-Based Payment. The Company is required to record compensation expense for all awards granted. The fair value of each stock option granted is estimated on the date of grant using the Black-Scholes option pricing model.

Federal Income Taxes

The Company has elected to be treated as a RIC under the Code. The Company s RIC tax year was initially filed on a July 31 basis. The Company s policy is to comply with the requirements of the Code that are applicable to RICs and to distribute substantially all of its taxable income to its stockholders. Therefore, no federal income tax provision is included in the accompanying financial statements. On February 11, 2008, the Company was granted permission by the Internal Revenue Service to change its RIC tax year from July 31, to December 31, effective on December 31, 2007. Accordingly, the Company prepared a short period tax

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

return from August 1, 2007 through December 31, 2007, and will file on a calendar year basis for 2008 and thereafter (see Note 13. Income Taxes).

Dividends Paid

Distributions to stockholders are recorded on the declaration date. The Company is required to pay out to its shareholders at least 90% of its net ordinary income and net realized short-term capital gains in excess of net realized long-term capital losses for each taxable year in order to be eligible for the tax benefits allowed to a RIC under Subchapter M of the Code. It is the policy of the Company to pay out as a dividend all or substantially all of those amounts. The amount to be paid out as a dividend is determined by the Board of Directors and is based on the annual earnings estimated by the management of the Company. At its year-end the Company may pay a bonus dividend, in addition to the other dividends, to ensure that it has paid out at least 90% of its net ordinary income and net realized short-term capital gains in excess of net realized long-term capital losses for the year.

Dividends and distributions which exceed net investment income and net realized capital gains for financial reporting purposes but not for tax purposes are reported as distributions in excess of net investment income and net realized capital gains, respectively. To the extent that they exceed net investment income and net realized gains for tax purposes, they are reported as distributions of paid-in capital (i.e., return of capital). The Company determined that $1.1 million of distributions represented a return of capital for tax purposes for the tax year ended December 31, 2008. In addition, the Company also determined that $1.3 million and $335,000, respectively of distributions represented a return of capital for tax purposes for the tax period August 1, 2007 to December 31, 2007 and for the fiscal tax year ended July 31, 2007, respectively. As more fully discussed in Note 13, such return of capital distributions was determined by the Company s tax earnings and profits during such periods.

Recent Accounting Pronouncements

In March 2008, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 161, Disclosures about Derivative Instruments and Hedging Activities, (SFAS 161). SFAS 161 requires specific disclosures regarding the location and amounts of derivative instruments in the Company s financial statements; how derivative instruments and related hedged items are accounted for; and how derivative instruments and related hedged items affect the Company s financial position, financial performance, and cash flows. SFAS 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. Early application is permitted. Because SFAS 161 impacts the Company s disclosure and not its accounting treatment for derivative instruments and related hedged items, the Company s adoption of SFAS 161 is not expected to impact the results of operations or financial condition.

Reclassifications

Certain prior period amounts have been reclassified to conform to the current year presentation.

Note 4. Investments

Effective January 1, 2008, upon adoption of SFAS 157, the Company changed its presentation for all periods presented to net unearned fees against the associated debt investments. Prior to the adoption of SFAS 157, the

Company reported unearned fees as a single line item on the Consolidated Balance Sheets and Consolidated Schedule of Investments. This change in presentation had no impact on the overall net cost or fair value of the Company s investment portfolio and had no impact on the Company s financial position or results of operations. In October 2008, FASB Staff Position 157-3, Determining the Fair Value of a Financial Asset in a Market That is Not Active (FSP 157-3) was issued, which clarifies the application of SFAS 157

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

in an inactive market and provides an illustrative example to demonstrate how the fair value of a financial asset is determined when the market for that financial asset is not active. The guidance provided by FSP 157-3 is consistent with the Company s approach to valuing financial assets for which there are no active markets.

At December 31, 2008 and 2007, investments consisted of the following:

	December 31, 2008		December 31, 2007	
	Cost	Fair Value	Cost	Fair Value
Investments in debt securities	$ 344,683,219	$ 308,079,975	$ 375,410,033	$ 371,261,022
Investments in equity securities	21,215,806	14,290,773	12,834,988	13,464,731
Total	$ 365,899,025	$ 322,370,748	$ 388,245,021	$ 384,725,753

At December 31, 2008 and 2007, $123.5 million and $138.0 million, respectively, of the Company s portfolio investments at fair value were at fixed rates, which represented approximately 38% and 36%, respectively, of the Company s total portfolio of investments at fair value. The Company generally structures its subordinated debt at fixed rates, although many of its senior secured and junior secured loans are, and will be, at variable rates determined on the basis of a benchmark LIBOR or prime rate. The Company s loans generally have stated maturities ranging from 4 to 7.5 years.

At December 31, 2008 and 2007, the Company had equity investments and warrant positions designed to provide the Company with an opportunity for an enhanced internal rate of return. These instruments generally do not produce a current return, but are held for potential investment appreciation and capital gains.

During the year ended December 31, 2008, the Company realized a net loss of $883,000 principally from the sale of two syndicated debt investments and the cancellation of warrants which it had previously written down to zero, which were partially offset by the sale of an equity investment. During the year ended December 31, 2007, the Company realized gains of $92,000, on the sale of portfolio investments. During the year ended December 31, 2006, the Company realized losses of $3.3 million, on the sale of portfolio investments. During the years ended December 31, 2008 and 2007, the Company recorded unrealized depreciation on investments of $40.0 million and $3.6 million, respectively, and during the year ended December 31, 2006, the Company recorded unrealized appreciation on investments of $3.8 million.

The composition of the Company s investments as of December 31, 2008 and 2007 at cost and fair value was as follows:

	December 31, 2008				December 31, 2007			
Cost	%(1)	Fair Value	%(1)	Cost	%(1)	Fair Value	%(1)
$ 171,889,470	47.0%	$ 156,638,667	48.6%	$ 190,048,200	49.0%	$ 189,209,150	49.

ior Secured t								
ior Secured t	64,232,689	17.5	58,076,196	18.0	85,493,227	22.0	84,583,227	22.0
ordinated Debt	108,561,060	29.7	93,365,112	29.0	99,868,606	25.7	97,468,645	25.3
rrants /Equity	21,215,806	5.8	14,290,773	4.4	12,834,988	3.3	13,464,731	3.5
al	$ 365,899,025	100.0%	$ 322,370,748	100.0%	$ 388,245,021	100.0%	$ 384,725,753	100.0

(1) Represents percentage of total portfolio.

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Notes to Consolidated Financial Statements (Continued)

The composition of the Company s investment portfolio by industry sector, using Moody s Industry Classifications as of December 31, 2008 and 2007 at cost and fair value was as follows:

	December 31, 2008			December 31, 2007		
	Cost	%(1)	Fair Value	Cost	%(1)	Fair Value
	$ 51,384,711	14.0%	$ 39,527,874	12.3%	$ 52,844,315	13.6%	$ 54,030,773
e, Education &	39,749,005	10.9	39,501,102	12.2	33,686,998	8.7	33,779,798
Nondurable Consumer	39,609,196	10.8	39,247,796	12.2	51,070,705	13.2	51,280,805
e	33,276,374	9.1	26,487,272	8.2	34,044,318	8.8	33,957,022
	31,033,364	8.5	30,033,495	9.3	42,296,015	10.9	42,470,710
Leather	29,557,681	8.1	29,368,566	9.1	12,970,522	3.3	13,077,422
Publishing	26,302,411	7.2	18,159,998	5.6	19,172,972	4.9	16,303,220
Minerals	23,049,480	6.3	22,453,909	7.0	22,972,190	5.9	22,972,190
eel, Iron & Nonprecious	18,092,545	4.9	17,245,764	5.3	10,796,410	2.8	10,785,664
Plastic & Rubber	16,659,410	4.6	9,347,006	2.9	10,733,851	2.8	10,730,842
s & Durable Consumer	11,005,810	3.0	9,333,052	2.9	9,673,177	2.5	9,686,477
es	10,978,984	3.0	10,872,284	3.4	10,656,911	2.7	10,637,911
	8,556,102	2.3	8,164,902	2.5	15,593,790	4.0	14,393,840
	8,156,189	2.2	8,278,569	2.6	23,149,458	6.0	23,287,658
	5,000,000	1.4	4,048,200	1.3	5,000,000	1.3	4,500,000
& Real Estate	4,613,182	1.3	4,613,182	1.4	4,780,826	1.2	4,780,826
	3,840,677	1.1	3,840,677	1.2	3,837,555	1.0	3,837,555
ood & Miscellaneous	3,000,000	0.8	1,050,000	0.3	3,000,000	0.8	2,910,000
/Conglomerate Service	1,570,736	0.4	623,500	0.2	9,516,840	2.4	9,245,940
& Defense	463,168	0.1	173,600	0.1	463,168	0.1	161,600
Food & Tobacco		0.0		0.0	9,000,000	2.3	9,000,000
Packaging & Glass		0.0		0.0	2,985,000	0.8	2,895,500
	$ 365,899,025	100.0%	$ 322,370,748	100.0%	$ 388,245,021	100.0%	$ 384,725,753

(1) Represents percentage of total portfolio.

As required by the 1940 Act, the Company classifies its investments by level of control. Control Investments are defined in the 1940 Act as investments in those companies that the Company is deemed to Control. Generally, under

the 1940 Act, the Company is deemed to Control a company in which it has invested if it owns 25% or more of the voting securities of such company or has greater than 50% representation on its board. Affiliate Investments are investments in those companies that are Affiliated Companies of the Company, as defined in the 1940 Act. The Company is deemed to be an Affiliate of a company in which it has invested if it owns 5% or more but less than 25% of the voting securities of such company. Non-Control/Non-Affiliate Investments are those investments that are neither Control Investments nor Affiliate Investments. At December 31, 2008 and 2007, the Company owned greater than 25% of the voting securities in four and one companies, respectively. At December 31, 2008 and 2007, the Company owned greater than 5% but less than 25% of the voting securities in four and six companies, respectively.

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Notes to Consolidated Financial Statements (Continued)

Note 5. Fair Value Measurements

The Company accounts for its portfolio investments and interest rate swaps at fair value. As a result, the Company adopted the provisions of SFAS No. 157 in the first quarter of 2008. SFAS 157 defines fair value, establishes a framework for measuring fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value and enhances disclosure requirements for fair value measurements. SFAS 157 defines fair value as the price at which an asset could be exchanged in a current transaction between knowledgeable, willing parties. A liability s fair value is defined as the amount that would be paid to transfer the liability to a new obligor, not the amount that would be paid to settle the liability with the creditor. Where available, fair value is based on observable market prices or parameters or derived from such prices or parameters. Where observable prices or inputs are not available, valuation techniques are applied. These valuation techniques involve some level of management estimation and judgment, the degree of which is dependent on the price transparency for the investments or market and the investments complexity.

Assets and liabilities recorded at fair value in the consolidated balance sheets are categorized based upon the level of judgment associated with the inputs used to measure their fair value. Hierarchical levels, defined by SFAS 157 and directly related to the amount of subjectivity associated with the inputs to fair valuation of these assets and liabilities, are as follows:

Level 1 Unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date.

Level 2 Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data at the measurement date for substantially the full term of the assets or liabilities.

Level 3 Unobservable inputs that reflect management s best estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

The following table presents the financial instruments carried at fair value as of December 31, 2008, by caption on the Consolidated Balance Sheet for each of the three levels of hierarchy established by SFAS 157.

	As of December 31, 2008			
	Quoted Market Prices in Active Markets (Level 1)	Internal Models with Significant Observable Market Parameters (Level 2)	Internal Models with Significant Unobservable Market Parameters (Level 3)	Total Fair Value Reported in Consolidated Balance Sheet
Non-affiliate investments	$ 215,100	$ 20,254,400	$ 220,017,120	$ 240,486,620
Affiliate investments			51,457,082	51,457,082

Control investments			30,427,046	30,427,046
Total investments at fair value	$ 215,100	$ 20,254,400	$ 301,901,248	$ 322,370,748

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Patriot Capital Funding, Inc.

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The following table provides a roll-forward in the changes in fair value from December 31, 2007 to December 31, 2008, for all investments for which the Company determines fair value using unobservable (Level 3) factors. When a determination is made to classify a financial instrument within Level 3 of the valuation hierarchy, the determination is based upon the fact that the unobservable factors are the most significant to the overall fair value measurement. However, Level 3 financial instruments also typically include, in addition to the unobservable or Level 3 components, observable components (that is, Level 1 and Level 2 components that are actively quoted and can be validated to external sources). Accordingly, the depreciation in the table below includes changes in fair value due in part to observable Level 1 and Level 2 factors that are part of the valuation methodology.

	Fair Value Measurements Using Unobservable Inputs (Level 3)			
	Non-affiliate Investments	Affiliate Investments	Control Investments	Total
Fair Value December 31, 2007	$ 267,006,559	$ 85,171,605	$ 9,328,389	$ 361,506,553
Total realized gains (losses)		458,405	(350,000)	108,405
Change in unrealized depreciation	(20,557,568)	(1,961,258)	12,333,998)	(34,852,824)(a)
Purchases, issuances, settlements and other, net	(26,431,871)	(32,211,670)	33,782,655	(24,860,886)
Transfers in (out) of Level 3				
Fair value as of December 31, 2008	$ 220,017,120	$ 51,457,082	$ 30,427,046	$ 301,901,248

(a) Relates to assets held at December 31, 2008

Concurrent with its adoption of SFAS 157, effective January 1, 2008, the Company augmented its valuation techniques to estimate the fair value of its debt investments where there is not a readily available market value (Level 3). Prior to January 1, 2008, the Company estimated the fair value of its Level 3 debt investments by first estimating the enterprise value of the portfolio company which issued the debt investment. To estimate the enterprise value of a portfolio company, the Company analyzed various factors, including the portfolio company s historical and projected financial results. Typically, private companies are valued based on multiples of EBITDA (Earning Before Interest, Taxes, Depreciation and Amortization), cash flow, net income, revenues or, in limited instances, book value.

In estimating a multiple to use for valuation purposes, the Company primarily looked to private merger and acquisition statistics, discounted public trading multiples or industry practices. In some cases, the valuation may be based on a combination of valuation methodologies, including, but not limited to, multiple based, discounted cash flow and liquidation analyses.

If there was adequate enterprise value to support the repayment of the Company s debt, the fair value of the Level 3 loan or debt security normally corresponded to cost plus the amortized original issue discount unless the borrower s condition or other factors lead to a determination of fair value at a different amount.

Beginning on January 1, 2008, the Company also introduced a bond-yield model to value these investments based on the present value of expected cash flows. The primary inputs into the model are market interest rates for debt with similar characteristics and an adjustment for the portfolio company s credit risk. The credit risk component of the valuation considers several factors including financial performance, business outlook, debt priority and collateral position. During the year ended December 31, 2008, the Company recorded net unrealized depreciation of $40.0 million on its investments, and during the year ended December 31, 2007, the Company recorded unrealized depreciation of $3.6 million. For the year ended December 31, 2008, a portion of the Company s net unrealized depreciation, approximately $5.6 million, resulted from net decreases in the quoted market prices on its syndicated loan portfolio as a result of disruption in the financial credit markets for broadly syndicated loans; approximately $27.5 million, resulted

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Patriot Capital Funding, Inc.

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from a decline in the financial performance of our portfolio companies; and approximately $6.9 million, resulted from the adoption of SFAS 157.

Note 6. Borrowings

On September 18, 2006, the Company, through a consolidated wholly-owned bankruptcy remote, special purpose subsidiary, entered into an amended and restated securitization revolving credit facility (the Securitization Facility) with an entity affiliated with BMO Capital Markets Corp. (formerly known as Harris Nesbitt Corp.). The Securitization Facility allowed the special purpose subsidiary to borrow up to $140 million through the issuance of notes to a multi-seller commercial paper conduit administered by the affiliated entity. The Securitization Facility also required bank liquidity commitments (Liquidity Facility) to provide liquidity support to the conduit. The Liquidity Facility was provided by the lender that participated in the Securitization Facility for a period of 364-days and was renewable annually thereafter at the option of the lender. On May 2, 2007, the Company amended its Securitization Facility to lower the interest rate payable on any outstanding borrowings under the Securitization Facility from the commercial paper rate plus 1.35% to the commercial paper rate plus 1.00% during the period of time the Company was permitted to make draws under the Securitization Facility. The amendment also reduced or eliminated certain restrictions pertaining to certain loan covenants. On August 31, 2007, the Company amended its Securitization Facility to increase its borrowing capacity thereunder by $35 million. The amendment also extended the commitment termination date from July 23, 2009 to July 22, 2010 and reduced or eliminated certain restrictions pertaining to certain loan covenants. The Securitization Facility provided for the payment by the Company to the lender of a monthly fee equal to 0.25% per annum on the unused amount of the Securitization Facility.

On April 11, 2008, the Company entered into a second amended and restated securitization revolving credit facility (the Amended Securitization Facility) with an entity affiliated with BMO Capital Markets Corp. and Branch Banking and Trust Company (the Lenders). The Amended Securitization Facility amended and restated the Securitization Facility to, among other things: (i) increase the borrowing capacity from $175 million to $225 million; (ii) extend the maturity date from July 22, 2010 to April 11, 2011 (unless extended prior to such date for an additional 364-day period with the consent of the lenders thereto); (iii) increase the interest rate payable under the facility from the commercial paper rate plus 1.00% to the commercial paper rate plus 1.75% on up to $175 million of outstanding borrowings and the LIBOR rate plus 1.75% on up to $50 million of outstanding borrowings; and (iv) increase the unused commitment fee from 0.25% per annum to 0.30% per annum.

The Amended Securitization Facility permits draws under the facility until April 10, 2009, unless the Lenders extend the Liquidity Facility underlying the Amended Securitization Facility for an additional 364 day period. If the Liquidity Facility is not extended, the Amended Securitization Facility enters into a 24-month amortization period whereby all principal, interest and fee payments received by the Company in conjunction with collateral pledged to the Amended Securitization Facility, less a monthly servicing fee payable to the Company, are required to be used to repay outstanding borrowings under the Amended Securitization Facility. Any remaining outstanding borrowings would be due and payable on the commitment termination date, which is currently April 11, 2011.

Similar to the Securitization Facility, the Amended Securitization Facility contains restrictions pertaining to the geographic and industry concentrations of funded loans, maximum size of funded loans, interest rate payment frequency of funded loans, maturity dates of funded loans and minimum equity requirements. These restrictions may affect the amount of notes the Company s special purpose subsidiary may issue from time to time. The Amended

Securitization Facility also contains certain requirements relating to portfolio performance, including required minimum portfolio yield and limitations on delinquencies and charge-offs, violation of which could result in the early termination of the Amended Securitization Facility. The Amended Securitization Facility also requires the maintenance of a Liquidity Facility. The Liquidity Facility is provided by the

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

Lenders that participate in the Securitization Facility for a period of 364-days and is renewable annually thereafter at the option of the lenders. The Liquidity Facility is scheduled to be renewed in April 2009. If the Liquidity Facility is not renewed, the Company s ability to draw under the Amended Securitization Facility would end and the amortization period under the Amended Securitization Facility would commence. The Amended Securitization Facility is secured by all of the loans held by the Company s special purpose subsidiary. At December 31, 2008, the maximum borrowings available to the Company under the facility is limited to the amount of stockholders equity, $180.1 million. As of December 31, 2008, the Company was in technical default of one of its debt covenants under its Amended Securitization Facility, which was cured within the timeframe allowed by the facility.

In connection with the origination and amendment of the Securitization Facility and the Amended Securitization Facility, the Company incurred $2.4 million of fees which are being amortized over the term of the facility.

At December 31, 2008 and 2007, $162.6 million and $164.9 million, respectively, of borrowings were outstanding under the facility. At December 31, 2008, the interest rate was 3.6%. Interest expense for the years ended December 31, 2008, 2007 and 2006 consisted of the following:

	Year Ended December 31,		
	2008	2007	2006
Interest charges	$ 7,495,021	$ 7,044,208	$ 3,753,153
Amortization of debt issuance costs	454,088	261,614	365,855
Unused facility fees	209,364	115,774	213,574
Total	$ 8,158,473	$ 7,421,596	$ 4,332,582

During 2006 through 2008, the Company, through our special purpose subsidiary, entered into eight interest rate swap agreements. The swap agreements have a fixed rate range of 3.3% to 5.2% on an initial notional amount totaling $53.6 million. The swap agreements expire five years from issuance. The swaps were put into place to hedge against changes in variable interest payments on a portion of our outstanding borrowings. For the year ended December 31, 2008, net unrealized depreciation attributed to the swaps was approximately $2.3 million. For the year ended December 31, 2007, net unrealized depreciation attributed to the swaps was approximately $775,000. For the year ended December 31, 2006, net unrealized appreciation attributed to the swaps was approximately $13,000. While hedging activities may insulate us against adverse changes in interest rates, they may also limit our ability to participate in the benefits of lower rates with respect to the outstanding borrowings.

Note 7. Stock Option Plan and Restricted Stock Plan

As of December 31, 2008, 3,644,677 shares of common stock were reserved for issuance upon exercise of options to be granted under the Company s stock option plan and 2,065,045 shares of the Company s common stock were reserved for issuance under the Company s employee restricted stock plan (the Plans). On August 14, 2008, awards of 190,000 shares of restricted stock were granted to the Company s executive officers and employees with a fair value of $7.37 (the closing price of the common stock at date of grant). On February 27, 2008, options to purchase a total of

800,500 shares of common stock were granted to the Company s executive officers and employees with an exercise price of $10.91 per share (the closing price of the common stock at date of grant). On February 23, 2007, options to purchase a total of 227,181 shares of common stock were granted to the Company s executive officers and employees with an exercise price of $14.38 per share (the closing price of the common stock at date of grant). On November 1, 2007, options to purchase a total of 5,000 shares of common stock were granted to the Company s employees with an exercise price of $11.49 per share (the closing price of the common stock at date of grant). On June 26, 2006, options to purchase a total of 903,000 shares of common stock were granted to the Company s executive officers and

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Notes to Consolidated Financial Statements (Continued)

employees with an exercise price of $10.97 per share (the closing price of the common stock at date of grant). Such options granted from 2006 to 2008 vest equally, on a monthly basis, over three years from the date of grant and have a ten-year exercise period. During 2008, 35,848 options were forfeited at a weighted average exercise price of $11.45; and also during 2008, 2,500 shares of restricted stock were forfeited. As of December 31, 2008, 3,201,329 options were outstanding, 2,411,454 of which were exercisable, and 187,500 shares of restricted stock were outstanding. The options have a weighted average remaining contractual life of 7.5 years, a weighted average exercise price of $12.42, and an aggregate intrinsic value of $0. The restricted stock vests over 4 years.

Effective January 1, 2006, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 123R, Share-Based Payment, (SFAS 123R). The Company has elected the modified prospective method of transition as permitted by SFAS 123R. Under this transition method, the Company is required to record compensation expense for all awards granted after the date of adoption and for the unvested portion of previously granted awards that were outstanding at the date of adoption. The fair value of each stock option granted is estimated on the date of grant using the Black-Scholes option pricing model. For options granted in 2006, this model used the following assumptions: annual dividend rate of 9.2%, risk free interest rate of 5.25%, expected volatility of 21%, and the expected life of the options of 6.5 years. For options granted in February 2007, this model used the following assumptions: annual dividend rate of 8.3%, risk free interest rate of 4.7%, expected volatility of 20%, and the expected life of the options of 6.5 years. For options granted in November 2007, this model used the following assumptions: annual dividend rate of 11.1%, risk free interest rate of 4.2%, expected volatility of 24%, and the expected life of the options of 6.5 years. For options granted in February 2008, this model used the following assumptions: annual dividend rate of 11.8%, risk free interest rate of 3.0%, expected volatility of 26%, and the expected life of the options of 6.5 years. For 2006 to 2008 grants, the Company calculated its expected term assumption using guidance provided by SEC Staff Accounting Bulletin 107 (SAB 107). SAB 107 allows companies to use a simplified expected term calculation in instances where no historical experience exists, provided that the companies meet specific criteria. The stock options granted by the Company meet those criteria, and the expected terms were determined using the SAB 107 simplified method. Expected volatility was based on historical volatility of similar entities whose share prices and volatility were available for all grants except the November 2007 and February 2008 grants. The November 2007 and February 2008 grants were calculated using the Company s historical volatility.

Assumptions used with respect to future grants may change as the Company s actual experience may be different. The fair value of options granted in 2008, 2007 and 2006 was approximately $0.47, $0.98 and $0.74, respectively, using the Black-Scholes option pricing model. The Company has adopted the policy of recognizing compensation cost for awards with graded vesting on a straight-line basis over the requisite service period for the entire award. For the years ended December 31, 2008, 2007 and 2006, the Company recorded compensation expense related to stock awards of approximately $758,000, $676,000 and $506,000, respectively, which is included in compensation expense in the consolidated statements of operations. The Company does not record the tax benefits associated with the expensing of stock awards since the Company elected to be treated as a RIC under Subchapter M of the Internal Revenue Code and, as such, the Company is not subject to federal income tax on the portion of taxable income and gains distributed to stockholders, provided that at least 90% of its annual taxable income is distributed. As of December 31, 2008, there was $453,000 of unrecognized compensation cost related to unvested options which is expected to be recognized over 2.2 years. As of December 31, 2008, there was $1.3 million of total unrecognized compensation cost related to unvested restricted stock awards which is expected to be recognized over 3.6 years.

Note 8. Employee Benefit Plan

The Company adopted a 401(k) plan (Plan) effective January 1, 2003. The Plan permits an employee to defer a portion of their total annual compensation up to the Internal Revenue Service annual maximum.

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

Employees are eligible to participate in the Plan upon completion of one year of service. On an annual basis, the Company makes a contribution equal to 4% (1% of which is discretionary) to each eligible employee s account, up to the Internal Revenue Service annual maximum. For the years ended December 31, 2008, 2007 and 2006, the Company recorded $97,000, $85,000 and $65,000, respectively, for employer contributions to the Plan.

Note 9. Common Stock Transactions

On January 26, 2007, the Company closed a shelf offering of 2.4 million shares of common stock and received gross proceeds of $33.7 million less underwriters commissions and discounts, and fees of $2.0 million.

On October 2, 2007, the Company closed a shelf offering of 2.3 million shares of common stock and received gross proceeds of $30.5 million less underwriters commissions and discounts, and fees of $1.6 million.

The Company had previously established a dividend reinvestment plan, and during the years ended December 31, 2008, 2007 and 2006, issued 177,000, 158,000 and 85,000 shares, respectively, in connection with dividends paid. The Company did not issue any shares of its common stock under the dividend reinvestment plan during the three months ended September 30, 2008 and the three months ended March 31, 2008 because it elected to satisfy the share requirements of the dividend reinvestment plan in connection with the dividends paid on July 16, 2008 and January 16, 2008 through open market purchases of its common stock by the administrator of the dividend reinvestment plan. Such purchases on July 16, 2008 and January 16, 2008 consisted of 90,000 and 55,000 common shares, respectively, at a cost of $589,000 and $573,000, respectively, which is included in distributions to stockholders. The following table summarizes the Company s dividends declared during 2008, 2007 and 2006:

Date Declared	Record Date	Payment Date	Amount
2008			
October 30, 2008	December 22, 2008	January 15, 2009	$0.25
July 30, 2008	September 12, 2008	October 15, 2008	0.33
May 2, 2008	June 5, 2008	July 16, 2008	0.33
February 27, 2008	March 14, 2008	April 16, 2008	0.33
Total 2008			$1.24
2007			
November 1, 2007	December 14, 2007	January 16, 2008	$0.33
August 2, 2007	September 14, 2007	October 17, 2007	0.32
April 30, 2007	June 15, 2007	July 17, 2007	0.32
February 23, 2007	March 15, 2007	April 18, 2007	0.32
Total 2007			$1.29

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

2006			
November 10, 2006	December 15, 2006	January 17, 2007	$0.31
August 7, 2006	September 15, 2006	October 17, 2006	0.31
May 9, 2006	June 2, 2006	July 17, 2006	0.29
February 28, 2006	March 21, 2006	April 11, 2006	0.29
Total 2006			$1.20

Note 10. Share Data

The following table sets forth a reconciliation of weighted average shares outstanding for computing basic and diluted income (loss) per common share for the years ended December 31, 2008, 2007 and 2006.

	Year Ended December 31,		
	2008	**2007**	**2006**
Weighted average common shares outstanding, basic	20,713,540	18,670,904	14,145,200
Effect of dilutive stock options		159,309	92,752
Weighted average common shares outstanding, diluted	20,713,540	18,830,213	14,237,952

The dilutive effect of stock options is computed using the treasury stock method. Options and restricted shares on 3.4 million (2008), 1.5 million (2007) and 1.3 million (2006) shares, were anti-dilutive and therefore excluded from the computation of diluted earnings per share.

Note 11. Commitments and Contingencies

The balance of unused commitments to extend credit was $23.8 million and $29.3 million at December 31, 2008 and December 31, 2007, respectively. Commitments to extend credit consist principally of the unused portions of commitments that obligate the Company to extend credit, such as investment draws, revolving credit arrangements or similar transactions. Commitments generally have fixed expiration dates or other termination clauses and may require payment of a fee by the counterparty. Since commitments may expire without being drawn upon, the total commitment amounts do not necessarily represent future cash requirements.

In connection with borrowings under the Amended Securitization Facility, the Company s special purpose subsidiary may be required under certain circumstances to enter into interest rate swap agreements or other interest rate hedging transactions. The Company has agreed to guarantee the payment of certain swap breakage costs that may be payable by the Company s special purpose subsidiary in connection with any such interest rate swap agreements or other interest rate hedging transactions (see Note 6. Borrowings).

The Company leases its corporate offices and certain equipment under operating leases with terms expiring through 2011. Future minimum lease payments due under operating leases at December 31, 2008 are as follows: $241,000 2009, $247,000 2010, $21,000 2011. Rent expense was approximately $274,000, $245,000 and $222,000 for the years ended December 31, 2008, 2007 and 2006, respectively. At December 31, 2008, the Company had an outstanding letter of credit in the amount of $38,000 as security deposit for the lease of the Company s corporate office.

Note 12. Concentrations of Credit Risk

The Company s customers are primarily small- to mid-sized companies in a variety of industries.

At December 31, 2008 and December 31, 2007, the Company did not have any investment in excess of 10% of the total investment portfolio at fair value. Investment income, consisting of interest, dividends and

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

fees, can fluctuate dramatically upon repayment of an investment or sale of an equity interest. Revenue recognition in any given year can be highly concentrated among several customers. During the years ended December 31, 2008, 2007 and 2006, the Company did not record investment income from any customer in excess of 10.0% of total investment income.

Note 13. Income Taxes

Effective August 1, 2005, the Company elected to be treated as a RIC. Accordingly, the Company s RIC tax year was filed on a July 31 basis. The Company s policy is to comply with the requirements of Subchapter M of the Code that are applicable to RICs and to distribute substantially all of its taxable income to its shareholders. To date, the Company has fully met all of the distribution requirements and other requirements of Subchapter M of the Code, therefore, no federal, state or local income tax provision is required. On February 11, 2008, the Company was granted permission by the Internal Revenue Service to change its RIC tax year from July 31, to December 31, effective on December 31, 2007. Accordingly, the Company prepared a short period tax return from August 1, 2007 through December 31, 2007, and will file on a calendar year basis for 2008 and thereafter.

Distributable taxable income for the year ended December 31, 2008, for the period August 1, 2006 through July 31, 2007 (close of RIC tax year) and August 1, 2007 through December 31, 2007 (RIC short tax period) is as follows:

	Year Ended December 31, 2008	August 1, 2007 to December 31, 2007	August 1, 2006 to July 31, 2007
GAAP Net Investment Income	$ 25,725,000	$ 10,224,000	$ 19,407,000
Tax timing differences of:			
Origination fees, net	(998,000)	1,223,000	883,000
Stock compensation expense, bonus accruals, original issue discount and depreciation and amortization	(67,000)	(37,000)	846,000
Tax Distributable Income	$ 24,660,000	$ 11,410,000	$ 21,136,000

Distributable taxable income differs from GAAP net investment income primarily due to: (1) origination fees received in connection with investments in portfolio companies are treated as taxable income upon receipt but are amortized into income for GAAP purposes; (2) certain stock compensation is not currently deductible for tax purposes but are current expenses for GAAP purposes and a bonus accrual carryover, as a result of the change in the Company s tax year described above, until actually paid; (3) certain debt investments that generate original issue discount; and (4) depreciation and amortization.

Distributions which exceed tax distributable income (tax net investment income and realized gains, if any) are reported as distributions of paid-in capital (ie., return of capital). The taxability of the four distributions made in the period August 1, 2006 through July 31, 2007 was determined by the Company s tax earnings and profits for its tax

fiscal year ended July 31, 2007. The taxability of the two distributions made in the period August 1, 2007 through December 31, 2007 (RIC short tax period) was determined by the Company s tax earnings and profits for the five months ended December 31, 2007. The taxability of the four distributions made in the year ended December 31, 2008 was determined by the Company s tax earnings and profits for its year ended December 31, 2008. The taxability of the distributions made during the year ended

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

December 31, 2008, for the period August 1, 2007 through December 31, 2007, and the period August 1, 2006 through July 31, 2007 is as follows:

	Year Ended December 31, 2008	August 1, 2007 to December 31, 2007	August 1, 2006 to July 31, 2007
Distributions paid from:			
Ordinary income	$ 24,660,000	$ 11,410,000	$ 21,136,000
Long-term capital gains			
Subtotal	24,660,000	11,410,000	21,136,000
Tax return of capital	1,135,000	1,258,000	335,000
Total distributions	$ 25,795,000	$ 12,668,000	$ 21,471,000

For 2008, ordinary income of $1.19 per share and tax return of capital of $0.05 per share was reported on Form 1099-DIV. For 2007, ordinary income of $1.21 per share and tax return of capital of $0.08 per share was reported on Form 1099-DIV. For 2006, ordinary income of $1.12 per share and tax return of capital of $0.08 per share was reported on Form 1099-DIV. There were no capital gain distributions in 2008, 2007 or 2006. The tax cost basis of the Company s investments as of December 31, 2008 approximates the book cost.

At December 31, 2008, the Company had a net capital loss carryforward of $4.1 million to offset net capital gains, to the extent provided by federal tax law. Of the total capital loss carryforward, $3.2 million will expire in the Company s tax year ending December 31, 2013, and $900,000 will expire in the Company s tax year ending December 31, 2015.

As of December 31, 2008, the components of accumulated earnings on a tax basis were as follows:

Distributable ordinary income	$ 5,022,000
Other book/tax temporary differences	(4,170,000)
Unrealized depreciation	(46,751,000)
Accumulated capital and other losses	(4,054,000)

The tax distributable income of $5,022,000 as of December 31, 2008 noted above was paid out as part of the January 15, 2009 cash distribution of $5,254,000. (Note: the dividend declared on October 30, 2008 with a record date of December 22, 2008 and paid on January 15, 2009, is included in the 2008 Form 1099-DIV, under the requirements of Subchapter M of the Code.

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

Note 14. Financial Highlights

	For the Year Ended December 31,		
	2008	**2007**	**2006**
Per Share Data:			
Net asset value at beginning of year	$ 10.73	$ 10.37	$ 10.48
Net investment income	1.24	1.22	1.06
Net realized gain (loss) on investments	(.04)	.01	(.23)
Net change in unrealized appreciation (depreciation) on investments	(1.93)	(.20)	.27
Net change in unrealized depreciation on swaps	(.11)	(.04)	
Tax return of capital	(.05)	(.08)	(.18)
Distributions from net investment income	(1.24)	(1.22)	(1.06)
Distributions in excess of net investment income	.05		.05
Stock based compensation expense	.03	.03	.03
Effect of issuance of common stock	(.03)	.64	(.05)
Net asset value at end of year	$ 8.65	$ 10.73	$ 10.37
Total Net Asset Value Return(1)	(7.8)%	16.1%	10.4%
Per share market value, beginning of period	$ 10.09	$ 14.49	$ 12.20
Per share market value, end of period	$ 3.64	$ 10.09	$ 14.49
Total Market Value Return(2)	(51.6)%	(21.4)%	28.6%
Shares outstanding at end of year	20,827,334	20,650,455	15,821,994
Ratios and Supplemental Data:			
Net assets at end of year	$ 180,117,000	$ 221,598,000	$ 164,109,000
Average net assets	207,482,000	202,531,000	149,790,000
Ratio of operating expenses to average net assets	8.0%	8.0%	7.7%
Ratio of net investment income to average net assets	12.4%	11.2%	10.0%
Weighted average borrowings outstanding	$ 141,457,000	$ 106,034,000	$ 55,469,000
Average amount of borrowings per share	$ 6.79	$ 5.13	$ 3.51

(1) The total net asset value return reflects the change in net asset value of a share of stock plus dividends from beginning of year to end of year.

(2) The total market value return reflects the change in the ending market value per share plus dividends,

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Patriot Capital Funding, Inc.

Notes to Consolidated Financial Statements (Continued)

divided by the beginning market value per share.

Note 15. Selected Quarterly Data (Unaudited)

The following table sets forth certain quarterly financial information for each of the fiscal quarters during the years ended December 31, 2008 and 2007. This information was derived from our unaudited financial statements. Results for any quarter are not necessarily indicative of results for the full year or for any future quarter.

	Year Ended December 31, 2008			
	Quarter Ended December 31	Quarter Ended September 30	Quarter Ended June 30	Quarter Ended March 31
Total Investment Income	$ 10,170,880	$ 10,229,420	$ 10,654,419	$ 11,244,685
Net Investment Income	5,962,888	6,557,783	6,418,698	6,785,900
Net Realized and Unrealized Gains (Losses) on Investments and Interest Rate Swaps	(22,900,157)	(6,873,878)	(2,742,818)	(10,693,675)
Net Income (Loss)	(16,937,269)	(316,095)	3,675,880	(3,907,775)
Net Income (Loss) Per Share, Basic and Diluted	$ (0.81)	$ (0.02)	$ 0.18	$ (0.19)
Weighted Average Shares Outstanding, Basic and Diluted	20,806,978	20,702,485	20,693,337	20,650,455

	Year Ended December 31, 2007			
	Quarter Ended December 31	Quarter Ended September 30	Quarter Ended June 30	Quarter Ended March 31
Total Investment Income	$ 11,142,679	$ 9,752,882	$ 9,089,653	$ 8,977,323
Net Investment Income	6,507,150	5,500,985	5,391,708	5,345,278
Net Realized and Unrealized Gains (Losses) on Investments and Interest Rate Swaps	(3,146,414)	(1,494,112)	291,156	27,939
Net Income	3,360,736	4,006,873	5,682,864	5,373,217
Net Income Per Share, Basic	$ 0.16	$ 0.22	$ 0.31	$ 0.31
Net Income Per Share, Diluted	$ 0.16	$ 0.22	$ 0.31	$ 0.30
Weighted Average Shares Outstanding, Basic	20,589,650	18,284,737	18,246,987	17,532,896
Weighted Average Shares Outstanding, Diluted	20,748,959	18,476,049	18,466,510	17,724,026

Note 16. Subsequent Events (Unaudited)

On March 3, 2009, the Board of Directors granted an award of 446,250 shares of restricted stock to the Company s executive officers with a fair value of $1.27 per share (the closing price of the common stock at the date of grant). The total fair value of $567,000 will be expensed over four years.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders of
Patriot Capital Funding, Inc.

We have audited in accordance with the standards of the Public Company Accounting Oversight Board (United States) the consolidated financial statements of Patriot Capital Funding, Inc. referred to in our report dated March 13, 2009, which is included in the annual report on Form 10-K. Our audits of the basic financial statements included the schedule of investments in and advances to affiliates, which is the responsibility of the Company s management. In our opinion, this financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ GRANT THORNTON LLP

New York, New York
March 13, 2009

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Schedule 12-14

PATRIOT CAPITAL FUNDING, INC.
SCHEDULE OF INVESTMENTS IN AND ADVANCES TO AFFILIATES

Portfolio Company	Investment(1)	Amount of Interest or Dividends Credited to Income	December 31, 2007 Fair Value	Gross Additions(2)	Gross Reductions(3)	December 31, 2008 Fair Value
Companies More Than 25% Owned:						
Encore Legal Solutions	Junior Debt	$ 1,040,181	$ 11,063,994	$ 358,260	$ (1,391,456)	$ 10,030,798
LLC	Subordinated Debt	230,237	3,489,226	2,670,341	(6,159,567)	
	Common Stock Warrants			350,000	(350,000)	
	Common Stock (4)			5,159,567	(4,832,667)	326,900
Fischbein, LLC	Subordinated Debt	674,445	4,180,389	265,500	(904,902)	3,540,987
	Membership Interest (4)		5,148,000		(1,272,000)	3,876,000
Nupla Corporation	Senior Debt	524,506	6,161,136	964,466	(1,102,325)	6,023,277
	Subordinated Debt	447,666	2,993,614	108,445	(909,684)	2,192,375
	Preferred Stock	113,157	493,427	1,158,656	(534,683)	1,117,400
	Common Stock (4)		38,300	55,000	(93,300)	
Sidump r Trailer Co.	Senior Debt	801,969	9,171,642	3,299,740	(9,152,073)	3,319,309
	Subordinated Debt	4,525	75,000		(75,000)	
	Preferred Stock	3,459		78,459	(78,459)	
	Common Stock (4)					
Total companies more than 25% owned		$ 3,840,145	$ 42,814,728	$ 14,468,434	$ (26,856,116)	$ 30,427,046
Companies 5% to 25% Owned:						
Aylward Enterprises, LLC	Senior Debt	$ 1,016,009	$ 11,792,736	$ 60,631	$ (4,633,889)	$ 7,219,478(5)
	Subordinated Debt	915,123	6,335,464	634,942	(6,970,406)	
	Membership Interest (4)					
Boxercraft Inc.	Senior Debt	279,853		11,550,000	(846,667)	10,703,333
	Subordinated Debt	325,284		6,591,375	(67,028)	6,524,347
	Preferred Stock	29,722		1,029,722	(180,222)	849,500
	Common Stock (4)			100	(100)	

KTPS Holdings, LLC	Senior Debt	597,377	8,185,400	1,811,997	(3,599,287)	6,398,110
	Junior Debt	629,695	4,035,122	139,728	(2,774)	4,172,076
	Membership Interest (4)		856,900		(135,700)	721,200
Smart, LLC	Senior Debt	1,030,989	8,266,840	550,807	(8,817,647)	
	Subordinated Note	67,375	250,000	250,000	(500,000)	
	Membership Interest (4)		729,100	592,403	(698,003)	623,500
Sport Helmets Holdings, LLC	Senior Debt	912,418	11,816,776	28,986	(435,400)	11,410,362
	Subordinated Debt	1,235,876	7,889,250	1,266,104	(1,000,000)	8,155,354
	Common Stock (4)		1,901,500		(2,200)	1,899,300
Vince & Associates Clinic Research, Inc	Senior Debt	359,366	7,391,657	433,343	(7,825,000)	
	Subordinated Debt	571,102	5,441,483	193,822	(5,635,305)	
	Preferred Stock (4)		592,900		(592,900)	
Total companies 5% to 25% owned		$ 7,970,189	$ 75,485,128	$ 25,133,961	$ (41,942,528)	$ 58,676,560

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This schedule should be read in conjunction with the Company s Consolidated Financial Statements, including the Consolidated Statement of Investments and Notes to the Consolidated Financial Statements.

(1) All investments listed are restricted securities within the meaning of Rule 144 under the Securities Act of 1933.

(2) Gross additions include increases in investments resulting from new portfolio company investments and paid-in-kind interest or dividends. Gross additions also include net increases in unrealized appreciation or net decreases in unrealized depreciation.

(3) Gross reductions include decreases in investments resulting from principal collections related to investment repayments. Gross reductions also include net increases in unrealized depreciation or net decreases in unrealized appreciation.

(4) Non-income producing.

(5) At December 31, 2008, the Company owned less than 5% of the voting securities of the company.

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ANNEX A

AGREEMENT AND PLAN OF MERGER
by and between
PATRIOT CAPITAL FUNDING, INC.
and
PROSPECT CAPITAL CORPORATION

DATED AS OF AUGUST 3, 2009

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of August 3, 2009 (this ***Agreement***), by and between Patriot Capital Funding, Inc., a Delaware corporation (***Company***) and Prospect Capital Corporation, a Maryland corporation (***Buyer***).

WITNESSETH:

WHEREAS, the boards of directors of the Company and Buyer (the ***Company Board*** and the ***Buyer Board,*** respectively) have determined that it is in the best interests of their respective companies and stockholders to consummate the merger provided for in this Agreement in which the Company will, on the terms and subject to the conditions set forth in this Agreement, merge with and into Buyer (the ***Merger***), with Buyer as the surviving company in the Merger (sometimes referred to in such capacity as the ***Surviving Company***);

WHEREAS, for federal income Tax purposes, it is the intent of the parties hereto that the Merger shall qualify as a reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended (the ***Code***), and this Agreement is intended to be and is adopted as a plan of reorganization for such purposes; and

WHEREAS, the parties desire to make certain representations, warranties and agreements in connection with the Merger and also to prescribe certain conditions to the Merger.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

THE MERGER

1.1 *The Merger*. Subject to the terms and conditions of this Agreement, in accordance with the Delaware General Corporation Law (the ***DGCL***) and the General Corporation Law of the State of Maryland (the ***MGCL***), at the Effective Time, the Company shall merge with and into Buyer and the separate corporate existence of the Company shall cease. Buyer shall be the Surviving Company in the Merger and shall continue its existence as a corporation under the laws of the State of Maryland.

1.2 *Effective Time*. Contemporaneously with the Closing, the Surviving Company shall file or cause to be filed (a) a certificate of merger (the ***Certificate of Merger***) with the Secretary of State of the State of Delaware (the ***Delaware Secretary***), and (b) articles of merger (the ***Articles of Merger***) with the Maryland State Department of Assessments and Taxation (***MDAT***). The Merger shall become effective at the time (the ***Effective Time***) set forth in the Certificate of Merger and Articles of Merger.

1.3 *Effects of the Merger*. At and after the Effective Time, the Merger shall have the effects set forth in the DGCL and the MGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges and powers of the Company and Buyer shall be vested in the Buyer as the Surviving Company, and all debts, liabilities and duties of the Company shall become the debts, liabilities and duties of the Buyer as the Surviving Company.

1.4 *Conversion of Stock*. At the Effective Time, by virtue of the Merger and without any action on the part of Buyer, the Company or the holder of any of the following securities:

(a) each share of common stock, par value $0.001 per share, of Buyer (the ***Buyer Common Stock***) issued and outstanding immediately prior to the Effective Time shall remain issued and outstanding and shall not be affected by the Merger;

(b) each share of common stock, par value $0.01 per share, of the Company (the ***Company Common Stock***) issued and outstanding immediately prior to the Effective Time that is owned by the

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Company, Buyer or any wholly-owned subsidiary of the Company or Buyer (the ***Excluded Company Shares***) shall be cancelled and shall cease to exist and no Buyer Common Stock or other consideration shall be delivered in exchange therefor;

(c) subject to Section 1.4(e), at the Effective Time each share of Company Common Stock other than the Excluded Company Shares shall be converted, in accordance with the procedures set forth in Article II, into the right to receive a number of shares of Buyer Common Stock equal to the result of (i) multiplied by (ii) (the ***Exchange Ratio***), where (i) and (ii) are determined as follows:

(i) = the result of:

(A) 4.0000 minus the Per Share Dividend,

divided by

(B) 10.0200

(ii) = a fraction, the numerator of which is 21,584,251, and the denominator of which is the number of shares of Company Common Stock then outstanding immediately prior to the Effective Time (including, for the avoidance of doubt, Company Restricted Shares which vest or have vested prior to the Effective Time (including as a result of the transactions contemplated by this Agreement), as well as any shares of Company Common Stock issued pursuant to the declaration of a Final Company Dividend or that would have been issued pursuant to the declaration of a Final Company Dividend, but (in accordance with Section 6.11(c)(y)) were not issued by the Company prior to the Closing.

Notwithstanding the foregoing, fractional shares resulting from the application of the Exchange Ratio shall be paid in cash in the manner set forth in Section 2.3(g). For these purposes, the term ***Per Share Dividend*** shall mean the amount of cash (if any, and expressed in Dollar.Cent format but without regard to dollar sign) per share payable as part of a Final Company Dividend pursuant to Section 2.3(c). The aggregate shares of Buyer Common Stock to be so issued (the ***Merger Shares***), together with any cash to be paid in lieu of fractional shares in accordance with Section 2.3(g), shall be referred to collectively as the ***Merger Consideration;***

(d) any share of Company Common Stock converted into the right to receive the Merger Consideration pursuant to this Article I shall no longer be outstanding and shall automatically be cancelled and shall cease to exist as of the Effective Time, and each certificate previously representing any such shares of Company Common Stock (each, a ***Certificate***) shall thereafter represent only the right to receive a proportionate share of the Merger Consideration into which the shares of Company Common Stock represented by such Certificate have been converted pursuant to this Section 1.4 and Section 2.3(g), as well as any dividends to which former holders of Company Common Stock become entitled in accordance with Article II; and

(e) if, between the date of this Agreement and the Effective Time, the outstanding shares of Buyer Common Stock shall have been increased, decreased, changed into or exchanged for a different number or kind of shares or securities as a result of a reclassification, stock dividend, stock split, reverse stock split, or other similar change and specifically excluding sales of Buyer Common Stock, sales of Buyer equity-linked securities, and issuance of Buyer Common Stock pursuant to Buyer s dividend reinvestment plan or otherwise in lieu of a portion of any cash dividend declared by Buyer, an appropriate and proportionate adjustment shall be made to the Exchange Ratio.

1.5 *Stock Options and Restricted Stock*.

(a) As of the Effective Time, by virtue of the Merger and without any action on the part of the holders thereof, each option to purchase shares of Company Common Stock granted under the Patriot Capital Funding, Inc. Amended Stock Option Plan (the ***Company Stock Option Plan***) that is outstanding immediately prior to the Effective Time (each, a ***Company Option,*** and collectively, the ***Company Options***) shall be cancelled

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in exchange for the payment in cash to the holder thereof of $0.01 per share of Company Common Stock for which such Company Option is therein exercisable.

(b) As of immediately prior to the Effective Time, each restricted share of Company Common Stock granted under the Patriot Capital Funding, Inc. Employee Restricted Stock Plan (the ***Company Restricted Stock Plan,*** and together with the Company Stock Option Plan, the ***Company Stock Plans***) that is outstanding at such time (collectively, the ***Company Restricted Shares***) shall, in accordance with the terms of the grant agreements governing the Company Restricted Shares, become fully vested and all restrictions with respect to such Company Restricted Shares shall lapse. Immediately prior to the Effective Time (i) a number of shares of each holder described in the immediately preceding sentence shall be cancelled in exchange for the right of such holder to receive payment in cash (less all Taxes required to be withheld on account of the vesting event referred to in the immediately preceding sentence) of the cash value per share at that time of the Buyer Common Stock per share that would otherwise be reserved in the Merger such that such holder should receive in cash the minimum aggregate amount of federal, state and local Tax required to be withheld on the entire amount of such holder s Company Restricted Shares; and (ii) the remaining number of Company Restricted Shares held by each such holder shall participate in the Merger on the same basis as the other individual holders of Company Common Stock in accordance with Section 1.4(c). The Company shall, as of immediately prior to the Effective Time, withhold such amounts as may be required to be deducted and withheld under the Code and any applicable state or local Tax law with respect to the lapsing of restrictions of Company Restricted Shares, which shall result in no net cash payment being made to any such holder in respect of such shares.

(c) The Company and Buyer agree that prior to the Effective Time the Company Stock Plans shall be amended to terminate the Company Stock Plans effective immediately prior to the Effective Time (other than with respect to outstanding awards thereunder, which shall be treated as set forth herein).

1.6 *Articles of Incorporation and Bylaws of the Surviving Company*. At the Effective Time, the articles of incorporation of Buyer (the ***Buyer Articles***), as in effect immediately prior to the Effective Time, shall remain the articles of incorporation of Buyer as the Surviving Company until thereafter amended in accordance with applicable law. The bylaws of the Buyer (the ***Buyer Bylaws***), as in effect immediately prior to the Effective Time, shall remain the bylaws of Buyer as the Surviving Company until thereafter amended in accordance with applicable law and the terms of such bylaws.

1.7 *Directors and Officers*. Except as otherwise directed in writing by Buyer, the directors and officers of the Company and its Subsidiaries immediately prior to the Effective Time shall submit their resignations to be effective as of the Effective Time. The directors and officers of Buyer shall, from and after the Effective Time, become the directors and officers, respectively, of the Surviving Company until their successors shall have been duly elected, appointed or qualified or until their earlier death, resignation or removal in accordance with the certificate of incorporation of the Surviving Company.

1.8 *Tax Consequences*. It is intended that the Merger shall constitute a reorganization within the meaning of Section 368(a) of the Code, and that this Agreement shall constitute a plan of reorganization for such purposes.

1.9 *Repayment of Outstanding Indebtedness*. At the Effective Time, Buyer shall cause to be paid (i) the full amount of principal and accrued interest, and (ii) up to $1,350,000 with respect to any and all of the fees, costs, expenses, penalties and other amounts (collectively, the ***Loan Repayment***) due and payable as of the Effective Time (including any such amounts that become due and payable as a result of the Merger and the consummation of the other transactions contemplated by this Agreement) under the Company Securitization Documents. For these purposes, the term ***Company Securitization Documents*** shall mean that certain Second Amended and Restated Loan Funding and Servicing Agreement by and among the Company, Patriot Capital Funding LLC I and the Lenders specified therein, together with the following agreements and arrangements entered into in connection therewith: (i) Agreement,

Limited Consent and Amendment No. 1 to Second Amended and Restated Loan Funding and Servicing Agreement, dated as of July 9, 2009, entered into by and among Company, Patriot Capital Funding LLC I, and the Lenders and other parties specified therein and (ii) a letter agreement, dated as of July 9, 2009, by and between Patriot Capital Funding LLC I and Bank

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of Montreal regarding the early termination of certain interest rate swaps agreements. The Loan Repayment shall occur in the manner reasonably required by the Lenders and other parties to whom any portion of the Loan Repayment is owed, and Buyer agrees to cooperate with, and take all such actions reasonably requested by, the Lenders and such other parties in connection therewith.

ARTICLE II

DELIVERY OF MERGER CONSIDERATION

2.1 *Exchange Agent*. Prior to the Effective Time, Buyer shall appoint a bank or trust company reasonably acceptable to the Company, or Buyer s transfer agent, pursuant to an agreement (the ***Exchange Agent Agreement***) to act as exchange agent (the ***Exchange Agent***) hereunder.

2.2 *Deposit of Merger Consideration*. At or prior to the Effective Time, Buyer shall (i) authorize the Exchange Agent to issue an aggregate number of shares of Buyer Common Stock equal to the aggregate Merger Shares and (ii) deposit, or cause to be deposited with, the Exchange Agent sufficient cash to make the payments to holders of Company Common Stock described in Section 2.3(g) (collectively, the ***Exchange Fund***). The Exchange Agent shall invest any cash included in the Exchange Fund as directed by Buyer; provided, however, that no gain or loss thereon shall affect the amounts payable to former holders of Company Stock pursuant to Article I or Article II of this Agreement. Any interest or other income resulting from such investments shall be the sole property of Buyer.

2.3 *Delivery of Merger Consideration*.

(a) As soon as reasonably practicable after the Effective Time, the Exchange Agent shall mail to each holder of record of a Certificate(s) which immediately prior to the Effective Time represented outstanding shares of Company Common Stock (other than Excluded Company Stock) (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to such Certificate(s) shall pass, only upon delivery of such Certificate(s) (or affidavits of loss in lieu of such Certificates)) to the Exchange Agent and shall be substantially in such form and have such other provisions as shall be prescribed by the Exchange Agent Agreement (the ***Letter of Transmittal***) and (ii) instructions for use in surrendering such Certificate(s) in exchange for the Merger Consideration and any dividends or distributions to which such holder is entitled pursuant to this Article II.

(b) Upon surrender to the Exchange Agent of its Certificate or Certificates, accompanied by a properly completed Letter of Transmittal, a holder of Company Common Stock will be entitled to receive promptly after the Effective Time the Merger Consideration in respect of the shares of Company Common Stock represented by its Certificate or Certificates. Until so surrendered, each such Certificate shall represent after the Effective Time, for all purposes, only the right to receive, without interest, the Merger Consideration upon surrender of such Certificate in accordance with, together with any dividends or distributions to which such holder is entitled pursuant to, this Article II.

(c) Prior to the Closing Date, in the event that the Company has undistributed investment company taxable income (as defined in Section 852(b)(2) of the Code) or net capital gain (as defined in Section 1221(11) of the Code) for the Company s short taxable year ending on the Closing Date, the Company shall declare a dividend, payable in cash or Company Common Stock or a combination thereof (the ***Final Company Dividend***), to holders of Company Common Stock. The Final Company Dividend, together with all previous Company dividends with respect to the Company s taxable year ending on the Closing Date, shall result in the Company distributing to the Company s stockholders all of the Company s undistributed investment company taxable income (as defined in Section 852(b)(2) of the Code) and all of the Company s net capital gain (as defined in Section 1221(11) of the Code) for the Company s taxable year ending on the Closing Date. If the Company determines it necessary to declare a Final Company Dividend, it shall notify Buyer at least ten (10) days prior to the Company Stockholder Meeting. In calculating its investment company taxable

income (as defined in Section 852(b)(2) of the Code) for its taxable year ending on the Closing Date, the Company shall not deduct any loss with respect to its investment in the debt of any portfolio company as an ordinary loss, unless the Company has received an opinion of its counsel, Sutherland Asbill & Brennan LLP, the form

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and substance of which opinion shall be subject to the reasonable approval of the Buyer, substantially to the effect that, on the basis of the law in effect at the time the opinion is provided, and facts, representations and assumptions set forth in such opinion that are consistent with the state of facts existing at the time the opinion is provided, in the case of a loan originated by the Company, such loss should constitute an ordinary loss deduction for U.S. federal income tax purposes or in the case of a loan that is not originated by the Company, such loss will constitute an ordinary loss deduction for U.S. federal income tax purposes.

(d) No dividends or other distributions declared with respect to Buyer Common Stock to stockholders of record on or after the Effective Time shall be delivered to the holder of any unsurrendered Certificate with respect to the shares of Buyer Common Stock represented thereby, in each case unless and until the surrender of such Certificate in accordance with this Article II. Subject to the effect of applicable abandoned property, escheat or similar laws, following surrender of any such Certificate in accordance with this Article II, the record holder thereof shall be entitled to receive, without interest, (i) the amount of dividends or other distributions with a record date after the Effective Time theretofore payable with respect to the whole shares of Buyer Common Stock represented by such Certificate and not paid and/or (ii) at the appropriate payment date, the amount of dividends or other distributions payable with respect to shares of Buyer Common Stock represented by such Certificate with a record date after the Effective Time (but before such surrender date) and with a payment date subsequent to the issuance of the Buyer Common Stock issuable with respect to such Certificate; provided, however, that all dividends payable to record holders of Certificates in accordance with this Section 2.3(d) shall be payable in the form of shares of Buyer Common Stock in accordance with Buyer s dividend reinvestment plan (the ***Buyer DRIP***), which form of payment the holder shall be deemed to have elected. From and after the Effective Time, all dividends payable with respect to Merger Shares or Buyer Common Stock issued in lieu of a cash dividend in accordance with this Section 2.3(d) shall be issued in the form of Buyer Common Stock under the Buyer DRIP until such time, if any, as the relevant holder elects to opt out of the Buyer DRIP.

(e) In the event of a transfer of ownership of a Certificate representing Company Common Stock that is not registered in the stock transfer records of the Company, the shares of Buyer Common Stock and cash in lieu of fractional shares of Buyer Common Stock comprising the Merger Consideration shall be issued or paid in exchange therefor to a person other than the person in whose name the Certificate so surrendered is registered if the Certificate formerly representing such Company Common Stock shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such payment or issuance shall pay any transfer or other similar Taxes required by reason of the payment or issuance to a person other than the registered holder of the Certificate or establish to the satisfaction of Buyer that the Tax has been paid or is not applicable. The Exchange Agent (or, subsequent to the earlier of (x) the one-year anniversary of the Effective Time and (y) the expiration or termination of the Exchange Agent Agreement, Buyer) shall be entitled to deduct and withhold from any cash in lieu of fractional shares of Buyer Common Stock otherwise payable pursuant to this Agreement to any holder of Company Common Stock such amounts as the Exchange Agent or Buyer, as the case may be, is required to deduct and withhold under the Code, or any provision of state, local or foreign Tax law, with respect to the making of such payment. To the extent the amounts are so withheld by the Exchange Agent or Buyer, as the case may be, and timely paid over to the appropriate Governmental Entity, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of shares of Company Common Stock in respect of whom such deduction and withholding was made by the Exchange Agent or Buyer, as the case may be.

(f) After the Effective Time, there shall be no transfers on the stock transfer books of the Company of the shares of Company Common Stock that were issued and outstanding immediately prior to the Effective Time other than to settle transfers of Company Common Stock that occurred prior to the Effective Time. If, after the Effective Time, Certificates representing such shares are presented for transfer to the Exchange Agent, they shall be cancelled and exchanged for the Merger Consideration, together with any distributions to which such holder is entitled in accordance with this Article II.

(g) Notwithstanding anything to the contrary contained in this Agreement, no fractional shares of Buyer Common Stock shall be issued upon the surrender of Certificates for exchange, no dividend or distribution with respect to Buyer Common Stock shall be payable on or with respect to any fractional share, and such

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fractional share interests shall not entitle the owner thereof to vote or to any other rights of a stockholder of Buyer. In lieu of the issuance of any such fractional share, Buyer shall pay to each former stockholder of the Company who otherwise would be entitled to receive such fractional share an amount in cash (rounded to the nearest cent) determined by multiplying (i) the average, rounded to the nearest one ten thousandth, of the closing sale prices of Buyer Common Stock on The NASDAQ Stock Market as reported by The Wall Street Journal for the five trading days immediately preceding the date of the Effective Time by (ii) the fraction of a share (after taking into account all shares of Company Common Stock held by such holder at the Effective Time and rounded to the nearest thousandth when expressed in decimal form) of Buyer Common Stock to which such holder would otherwise be entitled to receive pursuant to Section 1.4.

(h) Any portion of the Exchange Fund that remains unclaimed by the stockholders of the Company as of the first anniversary of the Effective Time may be paid to Buyer. In such event, any former stockholders of the Company who have not theretofore complied with this Article II shall thereafter look only to Buyer with respect to the Merger Consideration, any cash in lieu of any fractional shares and any unpaid dividends and distributions in respect of each share of Buyer Common Stock such stockholder is entitled to, as determined pursuant to this Agreement, in each case, without any interest thereon. Notwithstanding the foregoing, none of Buyer, the Surviving Company, the Exchange Agent or any other person shall be liable to any former holder of shares of Company Common Stock for any amount delivered in good faith to a public official pursuant to applicable abandoned property, escheat or similar laws.

(i) In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if reasonably required by Buyer or the Exchange Agent, the posting by such person of a bond in such amount as Buyer may determine is reasonably necessary as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration and any unpaid dividends or distributions deliverable in respect thereof pursuant to this Agreement.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as disclosed in (i) the Company SEC Reports (as defined in Section 3.5(c) below) filed prior to the date of this Agreement, or (ii) the disclosure schedule (the ***Company Disclosure Schedule***) delivered by the Company to Buyer prior to the execution of this Agreement (which schedule sets forth, among other things, items the disclosure of which is necessary or appropriate either in response to an express disclosure requirement contained in a provision hereof or as an exception to one or more representations or warranties contained in this Article III, or to one or more of the Company s covenants contained herein), the Company hereby represents and warrants to Buyer as follows:

3.1 *Corporate Organization*.

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Company has the requisite corporate power and corporate authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not, individually or in the aggregate, have a material adverse effect on the Company.

(b) True, complete and correct copies of the certificate of incorporation of the Company, as amended and/or restated through the date hereof (the ***Company Certificate***), and the bylaws of the Company, as amended and/or restated through the date hereof (the ***Company Bylaws***), have previously been made available to Buyer.

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(c) The Company has no Subsidiary other than Patriot Capital Funding LLC I ***(PCF)***. PCF (i) is duly formed and validly existing and in good standing under the laws of the State of Delaware, (ii) has the requisite limited liability company power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted and (iii) is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not, individually or in the aggregate, have a material adverse effect on the Company. The certificate of formation and operating agreement of PCF, copies of which have previously been made available to Buyer, are true, complete and correct copies of such documents as of the date of this Agreement. As used in this Agreement, the term ***Subsidiary ,*** when used with respect to either party, means any corporation, partnership, limited liability company or other organization, whether incorporated or unincorporated, that is consolidated with such party for financial reporting purposes under United States generally accepted accounting principles ***(GAAP)*** and, in the case of the Company, Article 6 of the SEC s Regulation S-X. Section 3.1(c) of the Company Disclosure Schedule contains a detailed calculation of the total amount of the Loan Repayment that would be due if the Loan Repayment were to be made on the date of this Agreement, recognizing that such calculation made as of the Closing Date may vary.

(d) The minute books of the Company previously made available to Buyer contain true, complete and correct records of all meetings and other corporate actions held or taken since December 31, 2008 of its stockholders and Board of Directors (including committees of its Board of Directors); provided, however, that the Company has redacted such minutes to the extent necessary to omit any information concerning the potential strategic transaction involving or sale of the Company, the bidders therefor and any similar information of a confidential or sensitive nature (recognizing that complete minutes and records shall be in the possession of the Company at Closing).

3.2 *Capitalization*. (a) The authorized capital stock of the Company consists of 49,000,000 shares of Company Common Stock, par value $0.01 per share, of which, as of the date of this Agreement, 21,584,251 shares, including all Company Restricted Shares, were issued and outstanding, and 1,000,000 shares of preferred stock, par value $0.01 per share (the ***Company Preferred Stock***), of which, as of the date of this Agreement, no shares were issued and outstanding. As of the date of this Agreement, 633,750 Company Restricted Shares were issued and outstanding and subject to restrictions and no shares of Company Common Stock or Company Preferred Stock were reserved for issuance except for (i) 3,644,677 shares of Company Common Stock reserved for issuance in connection with Company Options under the Company Stock Option Plan that are outstanding as of the date of this Agreement, and (ii) 2,065,045 shares of Company Common Stock reserved for issuance under the Company Restricted Stock Plan. All of the issued and outstanding shares of Company Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. As of the date of this Agreement, no bonds, debentures, notes or other indebtedness having the right to vote on any matters on which shareholders of the Company may vote ***(Voting Debt)*** are issued or outstanding. As of the date of this Agreement, except pursuant to this Agreement, including with respect to the Company Stock Plans as set forth herein, the Company does not have and is not bound by any outstanding subscriptions, options, warrants, calls, rights, commitments or agreements of any character calling for the purchase or issuance of, or the payment of any amount based on, any shares of Company Common Stock, Company Preferred Stock, Voting Debt or any other equity securities of the Company or any securities representing the right to purchase or otherwise receive any shares of Company Common Stock, Company Preferred Stock, Voting Debt or other equity securities of the Company. As of the date of this Agreement, there are no contractual obligations of the Company or any of its Subsidiaries (A) to repurchase, redeem or otherwise acquire any shares of capital stock of the Company or any equity security of the Company or its Subsidiaries or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of the Company or its Subsidiaries or (B) pursuant to which the Company or any of its Subsidiaries is or could be required to register shares of Company capital stock or other securities under the Securities Act of 1933, as amended (the ***Securities Act***).

(b) Section 3.2(b) of the Company Disclosure Schedule includes a true, complete and correct list of the aggregate number of shares of Company Common Stock issuable upon the exercise of each Company Option

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granted under the Company Stock Option Plan that were outstanding as of the date of this Agreement and the exercise price for each such Company Option. Other than the Company Options and Company Restricted Shares that are outstanding as of the date of this Agreement, no other equity-based awards are outstanding as of the date hereof.

(c) Except as set forth in Section 3.2(c) of the Company Disclosure Schedule, all of the issued and outstanding shares of capital stock or other equity ownership interests of each Subsidiary of the Company are owned by The Company, free and clear of any liens, pledges, charges, claims and security interests and similar encumbrances ***(Liens)***, and all of such shares or equity ownership interests are duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights. No Subsidiary of The Company has or is bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of capital stock or any other equity security of such Subsidiary or any securities representing the right to purchase or otherwise receive any shares of capital stock or any other equity security of such Subsidiary.

3.3 *Authority; No Violation*. (a) The Company has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly, validly and unanimously approved by the Company Board. Company Board has determined unanimously that this Agreement is advisable and in the best interests of the Company and its stockholders and has directed that this Agreement be submitted to the Company s stockholders for approval and adoption at a duly held meeting of such stockholders, together with the recommendation of the Board of Directors that the stockholders approve and adopt this Agreement (the ***Board Recommendation***) and has adopted a resolution to the foregoing effect. Except for the approval and adoption of this Agreement by the affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock entitled to vote at such meeting (the ***Requisite Stockholder Approval***), no other corporate proceedings on the part of the Company are necessary to approve this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Company and (assuming due authorization, execution and delivery by Buyer) constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms (except as may be limited by bankruptcy, insolvency, fraudulent transfer, moratorium, reorganization or similar laws of general applicability relating to or affecting the rights of creditors generally and subject to general principles of equity (the ***Bankruptcy and Equity Exception***)).

(b) Neither the execution and delivery of this Agreement by the Company nor the consummation by the Company of the transactions contemplated hereby, nor compliance by the Company with any of the terms or provisions of this Agreement, will (i) violate any provision of the Company Certificate or Company Bylaws, or (ii) assuming that the consents, approvals and filings referred to in Section 3.4 are duly obtained and/or made, (A) violate any law, judgment, order, injunction or decree applicable to Company, any of its Subsidiaries or any of their respective properties or assets or (B) except as would not, individually or in the aggregate, have a material adverse effect on the Company, violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of the Company or any of its Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, franchise, permit, agreement, by-law or other instrument or obligation to which the Company or any of its Subsidiaries is a party or by which any of them or any of their respective properties or assets is bound (collectively, the ***Company Contracts***).

3.4 *Consents and Approvals*.

(a) Except for (i) the filing with the Securities and Exchange Commission (the ***SEC***) of a Proxy Statement in definitive form relating to the meeting of the Company s stockholders to be held in connection with this Agreement

and the transactions contemplated by this Agreement (the ***Proxy Statement***) and of a registration statement on Form N-14 (the ***Form N-14***) in which the Proxy Statement will be included as a prospectus, and declaration of effectiveness of the Form N-14, (ii) the filing of the Certificate of Merger with

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the Delaware Secretary pursuant to the DGCL and the filing of the Articles of Merger with MDAT, (iii) any notices, consents, authorizations, approvals, filings or exemptions in connection with compliance with the rules and regulations of any applicable industry self-regulatory organization (***SRO***), and the rules of The NASDAQ Stock Market, (iv) any notices or filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the ***HSR Act***), (v) such filings and approvals as are required to be made or obtained under the securities or Blue Sky laws of various states in connection with the issuance of the shares of Buyer Common Stock pursuant to this Agreement, and (vi) compliance with the Investment Company Act of 1940, as amended (the 1940 Act), and the rules and regulations promulgated thereunder, no consents or approvals of or filings or registrations with any federal, state or local government or any court, administrative or regulatory agency or commission or other governmental authority or agency, domestic or foreign (each a ***Governmental Entity***) and approval of or non-objection to such applications, filings and notices (the ***Other Regulatory Approvals***) are necessary in connection with the execution and delivery by the Company of this Agreement or the consummation by the Company of the Merger and the other transactions contemplated by this Agreement.

(b) Except for (i) receipt of the Requisite Stockholder Approval, (ii) payment of the Loan Repayment and receipt of the relevant consents and releases under the Company Securitization Documents, (iii) consents under Company Contracts, and (iv) matters covered in the immediately preceding Section 3.4(a), no consents or approvals of any Person are necessary in connection with the execution and delivery by Company of this Agreement or the consummation by the Company of the Merger and the other transactions contemplated by this Agreement.

3.5 *Reports; Regulatory Matters*.

(a) The Company and each of its Subsidiaries have timely filed all reports, registrations, statements and certifications, together with any amendments required to be made with respect thereto, that they were required to file since December 31, 2005 with (i) The NASDAQ Stock Market, (ii) the SEC (other than the filing of the Company s fidelity bond in accordance with Rule 17g-1 under the 1940 Act) and (iii) any SRO (collectively, and together with any other applicable regulatory authorities, ***Regulatory Agencies***) and with each other applicable Governmental Entity, and all other reports and statements required to be filed by them since December 31, 2005, including any report or statement required to be filed pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency or other Governmental Entity, and have paid all fees and assessments due and payable in connection therewith. Except for normal examinations conducted by a Regulatory Agency or other Governmental Entity in the ordinary course of the business of the Company and its Subsidiaries (copies of any deficiency letter of the SEC and any correspondence relating thereto having been furnished to Buyer), no Regulatory Agency or other Governmental Entity has initiated since December 31, 2005 or has pending any proceeding, enforcement action or, to the knowledge of the Company, investigation into the business, disclosures or operations of the Company or any of its Subsidiaries. Since December 31, 2005, no Regulatory Agency or other Governmental Entity has resolved any proceeding, enforcement action or, to the knowledge of the Company, investigation into the business, disclosures or operations of the Company or any of its Subsidiaries. There is no unresolved, or, to the Company s knowledge, threatened criticism, comment, exception or stop order by any Regulatory Agency or other Governmental Entity with respect to any report or statement relating to any examinations or inspections of the Company or any of its Subsidiaries. Since December 31, 2005, there have been no formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency or other Governmental Entity with respect to the business, operations, policies or procedures of the Company or any of its Subsidiaries (other than normal examinations conducted by a Regulatory Agency or other Governmental Entity in the Company s ordinary course of business).

(b) Neither the Company nor any of its Subsidiaries is subject to any cease-and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any civil money penalty by, or has been since December 31, 2005 a recipient of any supervisory letter

from, or since December 31, 2005 has adopted any policies, procedures or board resolutions at the request or suggestion of, any Regulatory Agency or other Governmental Entity that

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currently restricts in any material respect the conduct of its business (or to the Company s knowledge that, upon consummation of the Merger, would restrict in any material respect the conduct of the business of Buyer or any of its Subsidiaries), or that in any material manner relates to its credit, risk management or compliance policies, its internal controls, its management or its business (each item in this sentence, a ***Company Regulatory Agreement***), nor has the Company or any of its Subsidiaries been advised since December 31, 2005 by any Regulatory Agency or other Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Company Regulatory Agreement.

(c) The Company has previously made available to Buyer an accurate and complete copy of each (i) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC by the Company or any of its Subsidiaries pursuant to the Securities Act or the Securities Exchange Act of 1934, as amended (the ***Exchange Act***) since December 31, 2005 (the ***Company SEC Reports***) and prior to the date of this Agreement and (ii) communication mailed by the Company to its stockholders since December 31, 2005 and prior to the date of this Agreement. No such Company SEC Report or communication, at the time filed, furnished or communicated (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, except as set forth in Section 3.5(c) of the Company Disclosure Schedule and except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Company SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of the Company has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act of 2002 (the ***Sarbanes-Oxley Act***).

3.6 *Financial Statements*.

(a) Except as set forth in Section 3.6(a) of the Company Disclosure Schedule, the financial statements of the Company and its Subsidiaries included in the Company SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of the Company and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders equity and consolidated financial position of the Company and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount), (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto and (iv) have been prepared in accordance with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto.

(b) The Company (i) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to ensure that material information relating to the Company, including its consolidated Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Company by others within those entities and (ii) has disclosed, based on its most recent evaluation prior to the date hereof, to the Company s outside auditors and the audit committee of Company Board (A) any significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect the Company s ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company s internal control over financial reporting. These disclosures, if any, were made in writing by management to the Company s auditors and audit committee, a copy of which has previously been made available to Buyer. As of the date hereof, the Company has no reason to believe that the Company s outside auditors, chief executive officer and chief financial officer will not be able to give the certifications

and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of the Sarbanes-Oxley Act, without qualification, when next due.

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(c) Since December 31, 2005, (i) neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, employee, auditor, accountant or representative of the Company or any of its Subsidiaries has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that the Company or any of its Subsidiaries has engaged in questionable accounting or auditing practices and (ii) no attorney representing the Company or any of its Subsidiaries, whether or not employed by the Company or any of its Subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by the Company or any of its officers, directors, employees or agents to the Company Board or any committee thereof or to any director or officer of the Company.

(d) Since December 31, 2005 (or such later date, if the Company only became subject to the applicable provisions, rules and regulations subsequent to December 31, 2005), the principal executive officer and the principal financial officer of the Company have complied in all material respects with (i) the applicable provisions of the Sarbanes-Oxley Act and under the Exchange Act and (ii) the applicable listing and corporate governance rules and regulations of The NASDAQ Stock Market. The principal executive officer and the principal financial officer of the Company have made all certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act with respect to each Company SEC Document filed by the Company. For purposes of the preceding sentence, principal executive officer and principal financial officer shall have the meanings given to such terms in the Sarbanes-Oxley Act. Except as permitted in the Exchange Act, including Sections 12(k)(2) and (3), since the enactment of the Sarbanes-Oxley Act, neither the Company nor any of its Affiliates has directly or indirectly extended or maintained credit, arranged for the extension of credit, renewed the extension of credit or materially modified an extension of credit in the form of personal loans to any executive officer or director (or equivalent thereof) of the Company or PCF.

(e) The Company has delivered to Buyer copies of any written notifications it has received to date since December 31, 2005 of a (i) significant deficiency or (ii) material weakness in the Company s internal controls. For purposes of this Agreement, the terms significant deficiency and material weakness shall have the meaning assigned to them in the Statements of Auditing Standards No. 60, as in effect on the date hereof.

3.7 *Broker s Fees.* Except for the fees of FBR Capital Markets & Co. ***(FBR),*** neither the Company nor any of its Subsidiaries nor any of their respective officers, directors, employees or agents has utilized any broker, finder or financial advisor or incurred any liability for any broker s fees, commissions or finder s fees in connection with the Merger or any other transactions contemplated by this Agreement. A true, complete and correct copy of the arrangement between FBR and the Company shall be delivered to Buyer promptly following the Effective Time.

3.8 *Absence of Certain Changes or Events.* (a) Since December 31, 2008, no event or events have occurred that have had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Change on the Company. As used in this Agreement, the term ***Material Adverse Change*** means, with respect to Buyer or the Company, as the case may be, a material adverse effect in (i) the financial condition, results of operations or business of such party and its Subsidiaries taken as a whole (provided, however, that, with respect to this clause (i), a ***Material Adverse Change*** shall not be deemed to include effects to the extent resulting from (A) changes, after the date hereof, in GAAP or regulatory accounting requirements applicable generally to companies in the industry in which such party and its Subsidiaries operate, (B) changes, after the date hereof, in laws, rules or regulations of general applicability to companies in the industry in which such party and its Subsidiaries operate, (C) actions or omissions taken with the prior written consent of the other party, (D) changes, after the date hereof, in global or national political conditions or general economic or market conditions generally affecting other companies in the industry in which such party and its Subsidiaries operate, (E) conditions arising out of acts of terrorism, war, weather conditions or other force majeure events (F) the public disclosure of this Agreement or the transactions contemplated hereby, (G) any legal proceedings made or brought by any of the current or former stockholders of such party (on their own behalf or on behalf of the

such party) arising out of or related to this Agreement or any of the

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transactions contemplated hereby, (H) any events of default under the Company Securitization Documents in addition to already existing events of default, (I) any changes in the liquidity position of Company that do not create material new liabilities for the Company (except to the extent that, with respect to such material new liability, Buyer has agreed to assume or fund such liability), or (J) relating to the matters set forth in Section 3.5(c) of the Company Disclosure Schedule, except, with respect to clauses (A), (B), (D) and (E), to the extent that the effects of such change are disproportionately adverse to the financial condition, results of operations or business of such party and its Subsidiaries, taken as a whole, as compared to other companies in the industry in which such party and its Subsidiaries operate) or (ii) the ability of such party to timely consummate the transactions contemplated by this Agreement.

(b) Since March 31, 2009, neither the Company nor any of its Subsidiaries has (i) except for (A) normal increases for or payments to employees (other than officers subject to the reporting requirements of Section 16(a) of the Exchange Act (the ***Executive Officers***)) made in the ordinary course of business consistent with past practice or (B) as required by applicable law or contractual obligations existing as of the date hereof, increased the wages, salaries, compensation, pension, or other fringe benefits or perquisites payable to any Executive Officer or other employee or director from the amount thereof in effect as of March 31, 2009, granted any severance or termination pay, entered into any contract to make or grant any severance or termination pay (in each case, except as required under the terms of agreements or severance plans listed on Section 3.11 of the Company Disclosure Schedule, as in effect as of the date hereof), or paid any bonus other than the customary year-end bonuses in amounts consistent with past practice, (ii) granted any options to purchase shares of Company Common Stock, any restricted shares of Company Common Stock or any right to acquire any shares of its capital stock, or any right to payment based on the value of the Company s capital stock, to any Executive Officer or other employee or director, (iii) changed any financial accounting methods, principles or practices of the Company or its Subsidiaries affecting its assets, liabilities or businesses, (iv) suffered any strike, work stoppage, slowdown, or other labor disturbance or (v) except for publicly disclosed ordinary dividends on the Company Common Stock and except for distributions by wholly-owned Subsidiaries of the Company to the Company or another wholly-owned Subsidiary of the Company, made or declared any distribution in cash or kind to its stockholders or repurchased any shares of its capital stock or other equity interests.

3.9 *Legal Proceedings*. (a) Except as set forth in Section 3.9 of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to any, and there are no pending or, to the best of the Company s knowledge, threatened, legal, administrative, arbitral or other proceedings, claims, actions, suits or governmental or regulatory investigations of any nature against the Company or any of its Subsidiaries or to which any of their assets are subject.

(b) There is no judgment, settlement agreement, order, injunction, decree or regulatory restriction (other than those of general application that apply to similarly situated companies or their Subsidiaries) imposed upon the Company, any of its Subsidiaries or the assets of the Company or any of its Subsidiaries (or that, upon consummation of the Merger, would apply to Buyer or any of its Subsidiaries).

3.10 *Taxes and Tax Returns*.

(a) Each of the Company and its Subsidiaries (i) has duly and timely filed (including all applicable extensions) all federal, state, local and foreign income and other material Tax Returns required to be filed by it on or prior to the date of this Agreement and all such Tax Returns are accurate and complete, (ii) has paid all Taxes shown thereon as due and (iii) has duly paid or made provision for the payment of all Taxes that have been incurred or are due or claimed to be due from it by federal, state, foreign or local taxing authorities other than Taxes that are not yet delinquent or are being contested in good faith, have not been finally determined and have been adequately reserved against under GAAP. There are no material disputes pending, or written claims asserted, for Taxes or assessments upon the Company or any Subsidiary for which the Company does not have reserves that are adequate under GAAP. Neither

the Company nor any Subsidiary is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than such an agreement or arrangement exclusively between or among the Company and its Subsidiaries as described in the Company Disclosure Schedule). Within the past five years (or otherwise as part of a plan (or

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series of related transactions) within the meaning of Section 355(e) of the Code of which the Merger is also a part), neither the Company nor any of its Subsidiaries has been a distributing corporation or a controlled corporation in a distribution intended to qualify under Section 355(a) of the Code. Neither the Company nor any of its Subsidiaries is required to include in income any adjustment pursuant to Section 481(a) of the Code, no such adjustment has been proposed by the Internal Revenue Service (the ***IRS***) and no pending request for permission to change any accounting method has been submitted by the Company or any of its Subsidiaries.

(b) Effective as of August 1, 2005, the Company made a valid election under Subchapter M of Chapter 1 of the Code to be taxed as a regulated investment company. The Company has qualified as a regulated investment at all times subsequent to August 1, 2005, and expects to qualify as such for its current taxable year ending on the Closing Date. At all times since August 1, 2005 the Company has satisfied the distribution requirements imposed on a regulated investment company under Section 852 of the Code and will either (i) satisfy such distribution requirements for its current taxable year ending on the Closing Date or (ii) make a Final Company Dividend declaration as set forth in Section 2.3(c). For any taxable year commencing prior to August 1, 2005 during which the Company was not a regulated investment company, the Company has no outstanding Taxes for which it does not have reserves adequate under GAAP. The Company has no earnings and profits accumulated in any taxable year in which the Company was not a regulated investment company under Subchapter M of Chapter 1 of the Code.

(c) PCF is classified (and at all times during its existence, has been classified) as a disregarded entity for federal tax purposes under Section 301.7701-3 of the Income Tax Regulations. On the Company Disclosure Schedule, the Company has provided a description of the nature of the business conducted by PCF and listed the assets held by PCF as of June 30, 2009.

(d) As used in this Agreement, the term ***Tax*** or ***Taxes*** means (i) all federal, state, local, and foreign income, excise, gross receipts, gross income, ad valorem, profits, gains, property, capital, sales, transfer, use, payroll, employment, severance, withholding, duties, intangibles, franchise, backup withholding, value added and other taxes, charges, levies or like assessments together with all penalties and additions to tax and interest thereon and (ii) any liability for Taxes described in clause (i) above under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law).

(e) As used in this Agreement, the term ***Tax Return*** means a report, return or other information (including any amendments) required to be supplied to a governmental entity with respect to Taxes including, where permitted or required, combined or consolidated returns for any group of entities that includes the Company or any of its Subsidiaries.

(f) The Company and its Subsidiaries have complied in all material respects with all applicable laws relating to the payment and withholding of Taxes (including withholding of Taxes pursuant to Sections 1441, 1442 and 3402 of the Code or any comparable provision of any state, local or foreign laws) and have, within the time and in the manner prescribed by applicable law, withheld from and paid over all amounts required to be so withheld and paid over under applicable laws.

(g) There are no limitations on the utilization of the built-in-losses, capital losses or other similar items of the Company and its Subsidiaries under Section 382, 384 or 269 of the Code (or any similar state, local or foreign law).

(h) Neither the Company nor any Subsidiary has any liability for Taxes of any person or entity other than the Company or any Subsidiary (i) under Section 1.1502-6 of the Treasury regulations (or any similar provision of state, local or foreign Law), (ii) as a transferee or successor, or (iii) by contract or otherwise.

(i) There are no liens for Taxes upon the assets of the Company or any of the Subsidiaries, except for liens for Taxes not yet due and payable and liens for Taxes that are both being contested in good faith and adequately reserved for in accordance with GAAP.

(j) Neither the Company nor any Subsidiary is or has been required to make any disclosure to the IRS pursuant to Section 6011 of the Code or Section 1.6011-4 of the Treasury regulations promulgated thereunder.

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(k) Neither the Company nor any Subsidiary is, or has been at any time since the date that is five years prior to the date hereof, a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code.

(l) Neither the Company nor any Subsidiary has granted any waiver, extension, or comparable consent regarding the application of the statute of limitations with respect to any Taxes or Tax Return that is outstanding, nor any request for such waiver or consent has been made.

3.11 *Employee Matters*.

(a) Section 3.11(a) of the Company Disclosure Schedule sets forth a true, complete and correct list of each employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (***ERISA***), whether or not subject to ERISA, and each employment, consulting, bonus, incentive or deferred compensation, vacation or other paid time off, stock option or other equity-based, severance, termination, retention, change of control, profit-sharing, welfare benefit, fringe benefit, retirement or other similar plan, program, agreement, arrangement or commitment for the benefit of any employee, former employee, director or former director of the Company or any of its Subsidiaries entered into, maintained or contributed to, or required to be maintained or contributed to by the Company, any of its Subsidiaries or any Person or entity that, together with the Company, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code, (each such person or entity, an ***ERISA Affiliate***) (such plans, programs, agreements, arrangements and commitments, herein referred to as the ***Company Benefit Plans***).

(b) With respect to each Company Benefit Plan, the Company has made available to Buyer true, complete and correct copies of the following (as applicable): (i) the written document evidencing such Company Benefit Plan or, with respect to any such plan that is not in writing, a written description of the material terms thereof, (ii) the summary plan description, (iii) the two (2) most recent annual reports, financial statements and/or actuarial reports, (iv) the most recent determination letter from the IRS, (v) the two (2) most recent Form 5500s required to have been filed with the IRS, including all schedules thereto and (vi) any related trust agreements or documents of any other funding arrangements.

(c) (i) Each Company Benefit Plan has been administered in accordance with its terms in all material respects, (ii) all Company Benefit Plans are in compliance with the applicable provisions of ERISA, the Code and all other applicable laws, including Section 409A of the Code in all material respects, (iii) no non-exempt prohibited transaction (as defined in Section 4975 of the Code or Section 406 of ERISA) has occurred with respect to any Company Benefit Plan, (iv) all contributions to, and payments from, the Company Benefit Plans have been made in accordance with the terms of the Company Benefit Plans, ERISA, the Code and all other applicable laws in all material respects, (v) in all material respects all reports, returns and similar documents with respect to the Company Benefit Plans required to be filed with any Governmental Entity or distributed to any Company Benefit Plan participant have been duly and timely filed or distributed and (vi) there are no current or, to the Company s knowledge, threatened investigations by any Governmental Entity, termination proceedings, or other claims by any Person (except routine claims for benefits) with respect to the Company Benefit Plans.

(d) None of the Company Benefit Plans are pension benefit plans (within the meaning of ERISA) subject to Title IV of ERISA and no liability has been incurred by the Company or any ERISA Affiliate under Title IV of ERISA that has not been satisfied in full and no condition exists that presents a risk of such liability. No Company Benefit Plan is a multiemployer plan (as defined in Section 3(37) of ERISA). No Company Benefit Plan provides for healthcare benefits after termination of employment or service as a director, except as required by applicable law.

(e) Neither the execution of this Agreement, nor the consummation of the transactions contemplated hereby (either alone or in connection with any event) will (i) entitle any employee of the Company or its Subsidiaries to severance

pay or any increase in severance pay upon any termination of employment after the date hereof, except as set forth in Section 3.11(e)(i) of the Company Disclosure Schedule, (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant

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to, any of the Company Benefit Plans, except as set forth in Section 3.11(e)(ii) of the Company Disclosure Schedule, (iii) limit or restrict the right of the Company or its Subsidiaries to merge, amend or terminate any of the Company Benefit Plans or (iv) result in payments by the Company or its Subsidiaries under any of the Company Benefit Plans which would not be deductible by the Company or its Subsidiaries under Section 162(m) or Section 280G of the Code, except as set forth in Schedule 3.11(e)(iv) of the Company Disclosure Schedule.

(f) Neither the Company nor any of its Subsidiaries is a party to or bound by any labor or collective bargaining agreement and there are no organizational campaigns, petitions or other activities or proceedings of any labor union, workers council or labor organization seeking recognition of a collective bargaining unit with respect to, or otherwise attempting to represent, any of the employees of the Company or any of its Subsidiaries or compel the Company or any of its Subsidiaries to bargain with any such labor union, works council or labor organization. There are no labor related controversies, strikes, slowdowns, walkouts or other work stoppages pending or, to the knowledge of the Company, threatened and neither the Company nor any of its Subsidiaries has experienced any such labor related controversy, strike, slowdown, walkout or other work stoppage within the past three years.

(g) Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Entity relating to employees or employment practices. (i) Each of the Company and its Subsidiaries are in compliance in all material respects with all applicable laws relating to labor, employment, termination of employment or similar matters, including but not limited to laws relating to discrimination, disability, labor relations, hours of work, payment of wages and overtime wages, pay equity, immigration, workers compensation, working conditions, employee scheduling, occupational safety and health, family and medical leave, and employee terminations, and have not engaged in any unfair labor practices or similar prohibited practices and (ii) there are no complaints, lawsuits, arbitrations, administrative proceedings, or other proceedings of any nature pending or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries brought by or on behalf of any applicant for employment, any current or former employee, any person alleging to be a current or former employee, any class of the foregoing, or any Governmental Entity, relating to any such law or regulation, or alleging breach of any express or implied contract of employment, wrongful termination of employment, or alleging any other discriminatory, wrongful or tortious conduct in connection with the employment relationship.

3.12 *Compliance with Applicable Law*. The Company and each of its Subsidiaries hold all licenses, franchises, permits and authorizations necessary for the lawful conduct of their respective businesses under and pursuant to each, and have complied in all respects with and are not in default in any respect under any, law applicable to the Company or any of its Subsidiaries, except for such failures, non-compliance or defaults that would not, individually or in the aggregate, have a material adverse effect on the Company.

3.13 *Certain Contracts*. (a) Except as set forth in Section 3.13 of the Company Disclosure Schedule or as expressly contemplated by this Agreement, neither the Company nor any of its Subsidiaries is a party to or bound by any contract, arrangement, commitment or understanding (whether written or oral) (i) which, upon execution of this Agreement or consummation or stockholder approval of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional acts or events) result in any payment or benefits (whether of severance pay or otherwise) becoming due from Buyer, the Company, the Surviving Company, or any of their respective Subsidiaries to any Executive Officer or employee of the Company or any of its Subsidiaries, (ii) that is a material contract (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC) to be performed after the date of this Agreement that has not been filed or incorporated by reference in the Company SEC Reports filed prior to the date hereof or (iii) including any stock option plan, stock appreciation rights plan, restricted stock plan or stock purchase plan, any of the benefits of which will be increased, or the vesting of the benefits of which will be accelerated, by the execution of this Agreement, the occurrence of any stockholder approval or the consummation of any of the

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transactions contemplated by this Agreement, or the value of any of the benefits of which will be calculated on the basis of or affected by any of the transactions contemplated by this Agreement.

(b) Except as set forth in Section 3.13 of the Company Disclosure Schedule, (i) each Company Contract is valid and binding on the Company or its applicable Subsidiary, enforceable against it in accordance with its terms (subject to the Bankruptcy and Equity Exception), and is in full force and effect, (ii) the Company and each of its Subsidiaries and, to the Company s knowledge, each other party thereto has duly performed all obligations required to be performed by it to date under each Company Contract and (iii) other than with respect to the Company Securitization Documents, no event or condition exists that constitutes or, after notice or lapse of time or both, will constitute, a breach, violation or default on the part of the Company or any of its Subsidiaries or, to the Company s knowledge, any other party thereto under any such Company Contract. Other than with respect to the Company Securitization Documents, or as set forth in Section 3.13 of the Company Disclosure Schedule, there are no disputes pending or, to the Company s knowledge, threatened with respect to any Company Contract.

(c) Section 3.13 of the Company Disclosure Schedule sets forth each portfolio asset held by the Company and its Subsidiaries on June 30, 2009 together with the internal credit quality rating of such asset as of June 30, 2009, a notation of any such asset that is on non-accrual status as of June 30, 2009 or that is in default (whether payment or otherwise) and a statement as to the percentage of the aggregate unpaid principal amount of the indebtedness included in the Company s total assets as of June 30, 2009 that have an internal credit quality rating of 4 or 5 as of June 30, 2009 or as to which one of the foregoing notations is made on such listing.

3.14 *Investment Securities*. Each of the Company and its Subsidiaries has good title to all securities (including any evidence of indebtedness) owned by it, free and clear of any Liens, except (a) for those Liens or restrictions arising under the Organizational Documents of the issuers of such securities, (b) to the extent such securities are pledged in connection with the Company Securitization Documents, (c) for restrictions on transferability arising under federal or state securities laws or (d) for Liens or restrictions which would not individually or in the aggregate be material with respect to the value, ownership or transferability of such securities. Such securities are valued on the books of the Company in accordance with GAAP and the 1940 Act in all material respects. For purposes of this Agreement, the term ***Organizational Documents*** shall mean, with respect to a Person other than a natural person, (i) the articles or certificate of incorporation and the bylaws of a corporation; (ii) the certificate of formation and operating agreement of a limited liability company, (iii) the partnership agreement and any statement of partnership of a general partnership; (iv) the limited partnership agreement and the certificate of limited partnership of a limited partnership; (v) any charter or similar document adopted or filed in connection with the creation, formation, or organization of any other Person; (vi) any stockholder or similar agreement among holders of securities of an issuer, and (vii) any amendment to any of the foregoing.

3.15 *Property*. The Company or one of its Subsidiaries (a) has good and marketable title to all the properties and assets (excluding securities, which are addressed in Section 3.14 above) reflected in the latest audited balance sheet included in such Company SEC Reports as being owned by the Company or one of its Subsidiaries or acquired after the date thereof (except properties sold or otherwise disposed of since the date thereof in the ordinary course of business) (the ***Owned Properties***), free and clear of all Liens of any nature whatsoever, except (i) statutory Liens securing payments not yet due, (ii) Liens relating to the Company Securitization Documents, (iii) easements, rights of way, and other similar encumbrances that do not materially affect the use of the properties or assets subject thereto or affected thereby or otherwise materially impair business operations at such properties and (iv) such imperfections or irregularities of title or Liens as do not materially affect the use of the properties or assets subject thereto or affected thereby or otherwise materially impair business operations at such properties (collectively, ***Permitted Encumbrances***), and (b) is the lessee of all leasehold estates reflected in the latest audited financial statements included in such Company SEC Reports or acquired after the date thereof (except for leases that have expired by their terms since the date thereof) (the ***Leased Properties*** and, collectively with the Owned Properties, the ***Real Property***),

free and clear of all Liens of any nature whatsoever, except for Permitted Encumbrances, and is in possession of the

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properties purported to be leased thereunder, and each such lease is valid without default thereunder by the lessee or, to the Company s knowledge, the lessor.

3.16 *Intellectual Property*. The Company owns or possesses sufficient trademarks, trade names, patent rights, copyrights, domain names, licenses, approvals, trade secrets and other similar rights (collectively, ***Intellectual Property Rights***) reasonably necessary to conduct its business as now conducted and as described in the Company SEC reports, except where the failure to own or possess such rights would not reasonably be expected to result in a material adverse effect on the Company; and the expected expiration of any of such Intellectual Property Rights would not result in a material adverse effect on the Company. To the Company s knowledge, none of the technology employed by the Company has been obtained or is being used by the Company in violation of any contractual obligation binding on the Company or, to the Company s knowledge, any of its officers, directors or employees in violation of the rights of any persons, except to the extent that any such violation would not reasonably be expected to result in a material adverse effect on the Company.

3.17 *State Takeover Laws*. The Company Board has unanimously approved this Agreement and the transactions contemplated hereby as required to render inapplicable to this Agreement and such transactions the restrictions on business combinations set forth in Section 203 of the DGCL or any other moratorium, control share, fair price, takeover or interested stockholder law (any such laws, ***Takeover Statutes***).

3.18 *Interested Party Transactions*. Except as set forth in the Company SEC Documents, no event has occurred since December 31, 2008 that would be required to be reported by the Company pursuant to Item 404(a) of Regulation S-K promulgated by the SEC.

3.19 *Reorganization; Approvals*. As of the date of this Agreement, the Company (a) is not aware of any fact or circumstance that could reasonably be expected to prevent the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code and (b) knows of no reason why all regulatory approvals from any Governmental Entity required for the consummation of the transactions contemplated by this Agreement should not be obtained on a timely basis.

3.20 *Opinion*. The Company Board has received the opinion of FBR to the effect that, subject to certain assumptions, limitations, qualifications and other matters, the Exchange Ratio set forth in this Agreement is fair, from a financial point of view, to the holders of Company Common Stock; it being agreed that Buyer is not entitled to rely upon such opinion.

3.21 *Company Information*. The information relating to the Company and its Subsidiaries that is provided by the Company or its representatives for inclusion in the Proxy Statement and Form N-14, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The portions of the Proxy Statement relating to the Company and its Subsidiaries and other portions within the reasonable control of the Company and its Subsidiaries will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder.

3.22 *Undisclosed Liabilities*. The Company and PCF do not have any liabilities or obligations, known or unknown, contingent or otherwise, except (i) liabilities and obligations in the respective amounts reflected on or reserved against in the consolidated balance sheet of the Company and PCF included in the financial statements of the Company (or readily apparent in the notes thereto), and (ii) liabilities and obligations incurred in a commercially reasonable manner consistent with industry practice since the date of such balance sheet.

3.23 *Insurance*. The Company and PCF maintain policies of insurance in such amounts and against such risks as are customary in the industries in which the Company and PCF operate. Except as would not be reasonably expected to have a material adverse effect on the Company, all such insurance policies are in full force and effect and will not in any way be affected by, or terminate or lapse by reason of, the execution (but not the performance) of this Agreement.

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3.24 *Environmental Matters*. Except as would not, individually or in the aggregate, have a material adverse effect on the Company and its Subsidiaries, taken as a whole, there are no legal, administrative, arbitral or other proceedings, claims, actions, causes of action or notices with respect to any environmental, health or safety matters or any private or governmental environmental, health or safety investigations or remediation activities of any nature with respect to any real property owned by the Company or its Subsidiaries seeking to impose, or that are reasonably likely to result in, any liability or obligation of the Company or any of its Subsidiaries arising under any local, state or federal environmental, health or safety statute, regulation, ordinance, or other requirement of any Governmental Entity, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and any similar state laws (collectively, ***Environmental Laws***), pending or threatened against the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries is subject to any agreement, order, judgment, decree, letter or memorandum by or with any Governmental Entity or third party imposing any liability or obligation with respect to any of the foregoing.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Except as disclosed in (i) the Buyer SEC Reports (as defined in Section 4.5(c) below) filed prior to the date of this Agreement, or (ii) the disclosure schedule (the ***Buyer Disclosure Schedule***) delivered by Buyer to the Company prior to the execution of this Agreement (which schedule sets forth, among other things, items the disclosure of which is necessary or appropriate either in response to an express disclosure requirement contained in a provision hereof or as an exception to one or more representations or warranties contained in this Article IV, or to one or more of Buyer s covenants contained herein, Buyer represents and warrants to the Company as follows:

4.1 *Corporate Organization*. (a) Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Maryland. Buyer has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not, individually or in the aggregate, have a material adverse effect on Buyer. True, complete and correct copies of the Organizational Documents of Buyer, as in effect as of the date of this Agreement, have previously been made available to the Company.

(b) Buyer has no Subsidiary other than Prospect Capital Funding LLC. Prospect Capital Funding LLC (i) is duly formed and validly existing and in good standing under the laws of the State of Delaware, (ii) has the requisite limited liability company power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted and (iii) is duly qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not, individually or in the aggregate, have a material adverse effect on Buyer.

4.2 *Capitalization*. The authorized capital stock of Buyer consists of 100,000,000 shares of stock, initially consisting of 100,000,000 shares of Buyer Common Stock. As of the date hereof (a) 48,415,358 shares of Buyer Common Stock were issued and outstanding, and (b) no unissued shares of stock have been classified, and no previously classified but unissued shares of stock of any class or series have been reclassified, as preferred stock. As of the date of this Agreement, no shares of Buyer Common Stock were held in Buyer s treasury. As of the date of this Agreement, no shares of Buyer Common Stock were reserved for issuance. All of the issued and outstanding shares of Buyer Common Stock have been (duly authorized and validly issued, and are fully paid, non-assessable and free of preemptive rights, with no personal liability attaching to the ownership thereof). The Merger Shares, when issued as

contemplated by this Agreement, (a) will be validly issued, fully paid, non-assessable and free preemptive rights, with no personal liability

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attaching to the ownership thereof and (b) will be issued in accordance with the requirements of the 1940 Act. As of the date of this Agreement, no Voting Debt of Buyer is issued or outstanding. As of the date of this Agreement, except pursuant to this Agreement, Buyer s dividend reinvestment plan and stock repurchase plans entered into by Buyer from time to time, Buyer does not have and is not bound by any outstanding subscriptions, options, warrants, calls, rights, commitments or agreements of any character calling for the purchase or issuance of any shares of Buyer Common Stock, Buyer preferred stock, Voting Debt of Buyer or any other equity securities of Buyer or any securities representing the right to purchase or otherwise receive any shares of Buyer Common Stock, Buyer preferred stock, Voting Debt of Buyer or other equity securities of Buyer.

4.3 *Authority; No Violation*. (a) Buyer has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, including the Loan Repayment. The execution and delivery of this Agreement and the consummation of the transactions contemplated (including the Loan Repayment) hereby have been duly and validly approved by the Buyer Board and no other corporate proceedings on the part of Buyer are necessary to approve this Agreement or to consummate the transactions contemplated hereby, including the Loan Repayment. This Agreement has been duly and validly executed and delivered by Buyer and (assuming due authorization, execution and delivery by the Company) constitutes the valid and binding obligation of each of Buyer, enforceable against Buyer in accordance with its terms (subject to the Bankruptcy and Equity Exception).

(b) Neither the execution and delivery of this Agreement by Buyer nor the consummation by Buyer of the transactions contemplated hereby (including the Loan Repayment), nor compliance by Buyer with any of the terms or provisions of this Agreement, will (i) violate any provision of the Organizational Documents of Buyer, or (ii) assuming that the consents, approvals and filings referred to in Section 4.4 are duly obtained and/or made, (A) violate any law, judgment, order, injunction or decree applicable to Buyer or any of its Subsidiaries, properties or assets or (B) except as would not, individually or in the aggregate, have a material adverse effect on Buyer, violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of Buyer or any of its Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which Buyer or any of its Subsidiaries is a party or by which any of them or any of their respective properties or assets is bound.

4.4 *Consents and Approvals*. Except for (i) the filing with the SEC of the Proxy Statement and the filing and declaration of effectiveness of the Form N-14, (ii) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL, (iii) the filing of the Articles of Merger with MDAT pursuant to the MGCL, (iv) any notices, consents, authorizations, approvals, filings or exemptions in connection with compliance with the rules and regulations of any applicable SRO, and the rules of The NASDAQ Stock Market, (v) any notices or filings that may be required under the HSR Act and (vi) such filings and approvals as are required to be made or obtained under the securities or Blue Sky laws of various states in connection with the issuance of the shares of Buyer Common Stock pursuant to this Agreement, no consents or approvals of or filings or registrations with any Governmental Entity, and no Other Regulatory Approvals are necessary in connection with the execution and delivery by Buyer of this Agreement or the consummation by Buyer of the Merger or the other transactions contemplated by this Agreement.

4.5 *Reports; Regulatory Matters*.

(a) Buyer and each of its Subsidiaries have timely filed all reports, registration statements, proxy statements and other materials, together with any amendments required to be made with respect thereto, that they were required to file since December 31, 2005 with the Regulatory Agencies and each other applicable Governmental Entity, and all other

reports and statements required to be filed by them since December 31, 2005, including any report or statement required to be filed pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency or other Governmental Entity, and have paid all fees and assessments due and payable in connection therewith. Except for normal examinations

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conducted by a Regulatory Agency or other Governmental Entity in the ordinary course of the business of Buyer and its Subsidiaries (copies of any deficiency letter of the SEC and any correspondence relating thereto having been furnished to the Company), no Regulatory Agency or other Governmental Entity has initiated since December 31, 2005 or has pending any proceeding, enforcement action or, to the knowledge of Buyer, investigation into the business, disclosures or operations of Buyer or any of its Subsidiaries. Since December 31, 2005, no Regulatory Agency or other Governmental Entity has resolved any proceeding, enforcement action or, to the knowledge of Buyer, investigation into the business, disclosures or operations of Buyer or any of its Subsidiaries. There is no unresolved violation, criticism, comment or exception by any Regulatory Agency or other Governmental Entity with respect to any report or statement relating to any examinations or inspections of Buyer or any of its Subsidiaries. Since December 31, 2005 there has been no formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency or other Governmental Entity with respect to the business, operations, policies or procedures of Buyer or any of its Subsidiaries (other than normal examinations conducted by a Regulatory Agency or other Governmental Entity in Buyer s ordinary course of business).

(b) Neither Buyer nor any of its Subsidiaries is subject to any cease-and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been since December 31, 2005 a recipient of any supervisory letter from, or has been ordered to pay any civil money penalty by, or since December 31, 2005 has adopted any policies, procedures or board resolutions at the request or suggestion of, any Regulatory Agency or other Governmental Entity that currently restricts in any material respect the conduct of its business or that in any material manner relates to its credit, risk management or compliance policies, its internal controls, its management or its business (each, a ***Buyer Regulatory Agreement***), nor has Buyer or any of its Subsidiaries been advised since December 31, 2005 by any Regulatory Agency or other Governmental Entity that it is considering issuing, initiating, ordering or requesting any such Buyer Regulatory Agreement.

(c) Buyer has previously made available to the Company an accurate and complete copy of each (i) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC by Buyer pursuant to the Securities Act or the Exchange Act since December 31, 2005 (the ***Buyer SEC Reports***) and prior to the date of this Agreement and (ii) communication mailed by Buyer to its stockholders since December 31, 2005 and prior to the date of this Agreement. No such Buyer SEC Report or communication, at the time filed, furnished or communicated (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances in which they were made, not misleading, except that information as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. As of their respective dates, all Buyer SEC Reports complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of Buyer has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

4.6 *Financial Statements*.

(a) The financial statements of Buyer and its Subsidiaries included (or incorporated by reference) in the Buyer SEC Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of Buyer and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders equity and consolidated financial position of Buyer and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to recurring year-end audit adjustments normal in nature and amount), (iii) complied as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto and (iv) have been prepared in accordance

with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto. The books and records

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of Buyer and its Subsidiaries have been, and are being, maintained in all material respects in accordance with GAAP and any other applicable legal and accounting requirements and reflect only actual transactions.

(b) Neither Buyer nor any of its Subsidiaries has any material liability or obligation of any nature whatsoever required by GAAP to be reserved for in a balance sheet (whether absolute, accrued, contingent or otherwise and whether due or to become due), except for those liabilities that are reflected or reserved against on the consolidated balance sheet of Buyer included in its Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 (including any notes thereto) and for liabilities and obligations incurred in a commercially reasonable manner since the date of such balance sheet.

(c) Buyer (i) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to ensure that material information relating to Buyer, including its consolidated Subsidiaries, is made known to the chief executive officer and the chief financial officer of Buyer by others within those entities and (ii) has disclosed, based on its most recent evaluation prior to the date hereof, to Buyer s outside auditors and the audit committee of Buyer s Board (A) any significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect Buyer s ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Buyer s internal control over financial reporting. These disclosures, if any, were made in writing by management to Buyer s auditors and audit committee, a copy of which has previously been made available to the Company. As of the date hereof, there is no reason to believe that Buyer s outside auditors, chief executive officer and chief financial officer will not be able to give the certifications and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of the Sarbanes-Oxley Act, without qualification, when next due.

(d) Since December 31, 2005, (i) neither Buyer nor any of its Subsidiaries nor, to the knowledge of the officers of Buyer, any director, officer, employee, auditor, accountant or representative of Buyer or any of its Subsidiaries has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of Buyer or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that Buyer or any of its Subsidiaries has engaged in questionable accounting or auditing practices and (ii) no attorney representing Buyer or any of its Subsidiaries, whether or not employed by Buyer or any of its Subsidiaries, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by Buyer or any of its officers, directors, employees or agents to the Buyer Board or any committee thereof or to any director or officer of Buyer.

(e) Since December 31, 2005 (or such later date, if Buyer only became subject to the applicable provisions, rules and regulations subsequent to December 31, 2005), the principal executive officer and the principal financial officer of Buyer have complied in all material respects with (1) the applicable provisions of the Sarbanes-Oxley Act and under the Exchange Act and (ii) the applicable listing and corporate governance rules and regulations of The NASDAQ Stock Market. The principal executive officer and the principal financial officer of Buyer have made all certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act with respect to each Buyer SEC Document filed by the Company. For purposes of the preceding sentence, principal executive officer and principal financial officer shall have the meanings given to such terms in the Sarbanes-Oxley Act. Except as permitted in the Exchange Act, including Sections 12(k)(2) and (3), since the enactment of the Sarbanes-Oxley Act, neither Buyer nor any of its Affiliates has directly or indirectly extended or maintained credit, arranged for the extension of credit, renewed the extension of credit or materially modified an extension of credit in the form of personal loans to any executive officer or director (or equivalent thereof) of Buyer.

(f) Buyer has delivered to the Company copies of any written notifications it has received to date since December 31, 2005 of a (i) significant deficiency or (ii) material weakness in Buyer s internal controls. For purposes of this Agreement, the terms significant deficiency and material weakness shall have the meaning assigned to them in the Statements of Auditing Standards No. 60, as in effect on the date hereof.

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4.7 *Broker s Fees*. Neither Buyer nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any broker s fees, commissions or finder s fees in connection with the Merger or related transactions contemplated by this Agreement.

4.8 *Absence of Certain Changes or Events*. Since December 31, 2008, no event or events have occurred that have had or would reasonably be expected to have a Material Adverse Change on Buyer.

4.9 *Legal Proceedings*.

(a) Neither Buyer nor any of its Subsidiaries is a party to any, and there are no pending or, to the best of Buyer s knowledge, threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against Buyer or any of its Subsidiaries or to which any of their assets are subject that, if decided adversely to Buyer and its Subsidiaries, would have a material adverse effect on Buyer.

(b) There is no judgment, order, injunction, decree or regulatory restriction other than those of general application that apply to similarly situated companies or their Subsidiaries imposed upon Buyer, any of its Subsidiaries or the assets of the Buyer or any of its Subsidiaries that has or could have a material adverse effect on Buyer.

4.10 *Taxes and Tax Returns*. (a) Each of Buyer and its Subsidiaries has duly and timely filed (including all applicable extensions) all material Tax Returns required to be filed by it on or prior to the date of this Agreement (all such Tax Returns being accurate and complete in all material respects), has paid all Taxes shown thereon as arising and has duly paid or made provision for the payment of all material Taxes that have been incurred or are due or claimed to be due from it by federal, state, foreign or local taxing authorities other than Taxes that are not yet delinquent or are being contested in good faith, have not been finally determined and have been adequately reserved against under GAAP. There are no material disputes pending, or written claims asserted, for Taxes or assessments upon Buyer nor any Subsidiary for which Buyer does not have reserves that are adequate under GAAP. Neither Buyer nor any Subsidiary is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than such an agreement or arrangement exclusively between or among Buyer and its Subsidiaries). Neither Buyer nor any of its Subsidiaries is required to include in income any adjustment pursuant to Section 481(a) of the Code, no such adjustment has been proposed by the IRS and no pending request for permission to change any accounting method has been submitted by Buyer or any of its Subsidiaries.

(b) Effective as of April 16, 2004, the Buyer made a valid election under Subchapter M of Chapter 1 of the Code to be taxed as a regulated investment company. The Buyer has qualified as a regulated investment at all times subsequent to April 16, 2004, and expects to qualify as such for its current taxable year. For any taxable year commencing prior to April 16, 2004 during which the Buyer was not a regulated investment company, the Buyer has no outstanding Taxes for which it does not have reserves adequate under GAAP. The Buyer has no earnings and profits accumulated in any taxable year in which the Buyer was not a regulated investment company under Subchapter M of Chapter 1 of the Code.

(c) Buyer and its Subsidiaries have complied in all material respects with all applicable laws relating to the payment and withholding of Taxes (including withholding of Taxes pursuant to Sections 1441, 1442 and 3402 of the Code or any comparable provision of any state, local or foreign laws) and have, within the time and in the manner prescribed by applicable law, withheld from and paid over all amounts required to be so withheld and paid over under applicable laws.

(d) There are no limitations on the utilization of the built-in-losses, capital losses or other similar items of the Buyer and its Subsidiaries under Section 382, 384 or 269 of the Code (or any similar state, local or foreign law).

(e) No Buyer or Subsidiary has any liability for Taxes of any person or entity other than the Buyer or any Subsidiary (i) under Section 1.1502-6 of the Treasury regulations (or any similar provision of state, local or foreign Law), (ii) as a transferee or successor, or (iii) by contract or otherwise.

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(f) There are no liens for Taxes upon the assets of the Buyer or any of the Subsidiaries, except for liens for Taxes not yet due and payable and liens for Taxes that are both being contested in good faith and adequately reserved for in accordance with GAAP.

(g) No Buyer or Subsidiary is or has been required to make any disclosure to the IRS pursuant to Section 6011 of the Code or Section 1.6011-4 of the Treasury regulations promulgated thereunder.

(h) No Buyer or Subsidiary is, or has been at any time since the date that is five years prior to the date hereof, a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code.

(i) No Buyer or Subsidiary has granted any waiver, extension, or comparable consent regarding the application of the statute of limitations with respect to any Taxes or Tax Return that is outstanding, nor any request for such waiver or consent has been made.

4.11 *Compliance with Applicable Law*. Buyer and each of its Subsidiaries hold all licenses, franchises, permits and authorizations necessary for the lawful conduct of their respective businesses under and pursuant to each, and have complied in all respects with and are not in default in any respect under any, law applicable to Buyer or any of its Subsidiaries, except as would not, individually or in the aggregate, have a material adverse effect on Buyer.

4.12 *Reorganization; Approvals*. As of the date of this Agreement, Buyer (a) is not aware of any fact or circumstance that could reasonably be expected to prevent the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code, and (b) knows of no reason why all regulatory approvals from any Governmental Entity required for the consummation of the transactions contemplated by this Agreement should not be obtained on a timely basis.

4.13 *Buyer Information*. The information relating to Buyer and its Subsidiaries that is provided by Buyer or its representatives for inclusion in the Proxy Statement and the Form N-14, or in any application, notification or other document filed with any other Regulatory Agency or other Governmental Entity in connection with the transactions contemplated by this Agreement, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The portions of the Proxy Statement relating to Buyer and its Subsidiaries and other portions within the reasonable control of Buyer and its Subsidiaries will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder. The Form N-14 will comply in all material respects with the provisions of the Securities Act and the rules and regulations thereunder.

4.14 *No Financing Condition*. Buyer has sufficient immediately available funds in cash or cash equivalents, or available under lines of credit in effect as of the date hereof, and at Closing will have sufficient immediately available funds in cash or cash equivalents, in each case as necessary to pay the full amount of the Loan Repayment and to perform its obligations with respect to the transactions contemplated by this Agreement.

4.15 *Undisclosed Liabilities*. Buyer and its Subsidiaries do not have any liabilities or obligations, known or unknown, contingent or otherwise, except (i) liabilities and obligations in the respective amounts reflected on or reserved against in the consolidated balance sheet of Buyer and its Subsidiaries included in the financial statements of Buyer (or readily apparent in the notes thereto), and (ii) liabilities and obligations incurred in a commercially reasonable manner since the date of such balance sheet.

4.16 *Insurance*. Buyer and its Subsidiaries maintain policies of insurance in such amounts and against such risks as are customary in the industries in which Buyer and its Subsidiaries operate. Except as would not reasonably be expected to have a material adverse effect on Buyer, all such insurance policies are in full force and effect and will not

in any way be affected by, or terminate or lapse by reason of, this Agreement or the consummation of any of the transactions contemplated hereby.

4.17 *Environmental Matters*. Except as would not, individually or in the aggregate, have a material adverse effect on Buyer, there are no legal, administrative, arbitral or other proceedings, claims, actions, causes

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of action or notices with respect to any environmental, health or safety matters or any private or governmental environmental, health or safety investigations or remediation activities of any nature with respect to any real property owned by the Buyer or its Subsidiaries seeking to impose, or that are reasonably likely to result in, any liability or obligation of Buyer or any of its Subsidiaries arising under any Environmental Laws, pending or threatened against Buyer or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries is subject to any material agreement, order, judgment, decree, letter or memorandum by or with any Governmental Entity or third party imposing any liability or obligation with respect to any of the foregoing.

4.18 *Investment Adviser and Administrator*.

(a) Prospect Capital Management LLC (the ***Investment Adviser***) is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware. Prospect Administration LLC (the ***Administrator***) is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware. True, complete and correct copies of the Organizational Documents of Investment Adviser and Administrator, each as in effect as of the date of this Agreement, have previously been made available to the Company. Each of Investment Adviser and Administrator has the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not, individually or in the aggregate, have a material adverse effect on the Buyer.

(b) Since the respective dates as of which information is given in the Buyer SEC Reports, except as otherwise stated therein, there has been no material adverse change in the operations, affairs or regulatory status of the Investment Adviser or the Administrator that would reasonably be expected to result in a material adverse effect on the Buyer.

(c) The Investment Adviser is duly registered with the SEC as an investment adviser under the Investment Advisers Act of 1940 and is not prohibited by such act or the 1940 Act from acting as the investment adviser of Buyer under the Investment Advisory Agreement as contemplated by the Buyer SEC Reports. There does not exist any proceeding or, to the Buyer s knowledge, any facts or circumstances the existence of which would be reasonably adversely affect the registration of the Investment Adviser with the SEC or the ability of the Investment Adviser to perform its obligations under the Investment Advisory Agreement.

(d) There is no action, suit or proceeding or, to the knowledge of the Investment Adviser or the Administrator, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Buyer, threatened, against or affecting either the Investment Adviser or the Administrator, which is required to be disclosed in the Buyer SEC Reports or which would reasonably be expected to result in a material adverse effect on the Buyer.

(e) The Investment Advisory Agreement has been duly authorized, executed and delivered by Buyer and Investment Adviser, is in full force and effect, and no party thereto is in default or breach of any of its obligations thereunder. The Administration Agreement has been duly authorized, executed and delivered by Buyer and Administrator, is in full force and effect, and no party thereto is in default or breach of any of its obligations thereunder. Each of the Investment Advisory Agreement and the Administration Agreement constitute valid and legally binding agreements of the Investment Adviser and the Administrator, respectively, subject to the Bankruptcy and Equity Exception.

(f) Neither the Investment Adviser nor the Administrator is in violation of its Organizational Documents or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the

Investment Adviser or the Administrator is a party or by which it or any of them may be bound, or to which any of the property or assets of the Investment Adviser or the Administrator is subject, or in violation of any law, statute, rule, regulation, judgment, order or decree, except for such violations or defaults that would not reasonably be expected to result in a material adverse effect on the Buyer.

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ARTICLE V

COVENANTS RELATING TO CONDUCT OF BUSINESS

5.1 *Conduct of Businesses Prior to the Effective Time*. Except as expressly contemplated by or permitted by this Agreement or with the prior written consent of the other party, during the period from the date of this Agreement to the Effective Time, (a) the Company shall, and shall cause each of its respective Subsidiaries to, (i) conduct its business in the ordinary course in all material respects, as such business is being conducted as of the date hereof, (ii) use reasonable best efforts to maintain and preserve intact its business organization and advantageous business relationships and retain the services of its key officers and key employees, and (b) each of the Company and Buyer shall, and shall cause each of its respective Subsidiaries to, and take no action that is intended to or would reasonably be expected to adversely affect or materially delay the ability of the Company or Buyer either to obtain any necessary approvals of any Regulatory Agency or other Governmental Entity required for the transactions contemplated hereby or to perform its covenants and agreements under this Agreement or to consummate the transactions contemplated hereby or thereby.

5.2 *Company Forbearances*. During the period from the date of this Agreement to the Effective Time, except as expressly contemplated or permitted by this Agreement, the Company shall not, and shall not permit any of its Subsidiaries to, without the prior written consent of Buyer:

(a) incur any indebtedness for borrowed money, assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligations of any other individual, corporation or other entity, or, other than in the ordinary course of business consistent with past practice, make any loan or advance or capital contribution to, or investment in, any person;

(b) (i) adjust, split, combine or reclassify any of its capital stock;

(ii) make, declare or pay any dividend, other than the Final Company Dividend, or make any other distribution on, or directly or indirectly redeem, purchase or otherwise acquire, any shares of its capital stock or any securities or obligations convertible (whether currently convertible or convertible only after the passage of time or the occurrence of certain events) into or exchangeable for any shares of its capital stock (except dividends paid by any of the Subsidiaries of the Company to the Company or to any of its wholly-owned Subsidiaries);

(iii) grant any stock options or restricted shares under any of the Company Stock Plans or otherwise, or grant any individual, corporation or other entity any right to acquire any shares of its capital stock; or

(iv) issue any additional shares of capital stock or other securities, except pursuant to the exercise of stock options granted under the Company Stock Option Plan that are outstanding as of the date of this Agreement;

(c) except as required under any Company Contract (other than those employment agreements listed on Section 3.11 of the Company Disclosure Schedule) or Company Benefit Plan existing as of the date hereof, (i) increase in any manner the compensation or benefits of any of the current or former directors, officers or employees of the Company or its Subsidiaries (collectively, ***Employees***), (ii) pay any amounts to Employees not required by any current plan or agreement (other than base salary in the ordinary course of business), (iii) become a party to, establish, amend, commence participation in, terminate or commit itself to the adoption of any stock option plan or other stock-based compensation plan, compensation (including any employee co-investment fund), severance, pension, retirement, profit-sharing, welfare benefit, or other employee benefit plan or agreement or employment agreement with or for the benefit of any Employee (or newly hired employees) or any other plan, agreement or arrangement which would be a Company Benefit Plan if in effect on the date hereof, (iv) accelerate the vesting of any stock-based compensation or

other long-term incentive compensation under any Company Benefit Plans or (v) hire any employee or terminate the employment of any employee;

(d) sell, transfer, pledge, lease, license, mortgage, encumber or otherwise dispose of any material amount of its properties or assets (including pursuant to securitizations) to any individual, corporation or other entity other than a Subsidiary or cancel, release or assign any material amount of indebtedness to

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any such person or any claims held by any such person, in each case other than pursuant to contracts in force at the date of this Agreement;

(e) transfer ownership, or grant any license or other rights, to any person or entity of or in respect of any material Intellectual Property Rights;

(f) make any material investment or loan (other than any unfunded commitments existing as of June 30, 2009) either by purchase of stock or securities or otherwise, contributions to capital, property transfers, or purchase of any property or assets of any other individual, corporation or other entity;

(g) take any action, or knowingly fail to take any action, which action or failure to act is reasonably likely to prevent the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code;

(h) amend its charter or bylaws, or take any action to exempt any person or entity (other than Buyer or its Subsidiaries) or any action taken by any person or entity from any Takeover Statute or similarly restrictive provisions of its Organizational Documents;

(i) (i) amend or otherwise modify or knowingly violate in any material respect the terms of, any Company Contract or (ii) create, renew or amend any agreement or contract or, except as may be required by applicable law, other binding obligation of the Company or its Subsidiaries containing (A) any material restriction on the ability of the Company or its Subsidiaries to conduct its business as it is presently being conducted or (B) any material restriction on the ability of the Company to engage in any type of activity or business;

(j) commence or settle any material claim, action or proceeding;

(k) take any action or willfully fail to take any action that is intended or may reasonably be expected to result in any of the conditions to the Merger set forth in Article VII not being satisfied;

(l) implement or adopt any change in its Tax accounting or financial accounting principles, practices or methods, other than as may be required by applicable law, GAAP or regulatory guidelines;

(m) file or amend any Tax Return other than in the ordinary course of business, make or change any Tax election, or settle or compromise any Tax liability; or

(n) agree to take, make any commitment to take, or adopt any resolutions of its board of directors in support of, any of the actions prohibited by this Section 5.2.

5.3 *Buyer Forbearances*. Except as expressly permitted by this Agreement or with the prior written consent of the Company, during the period from the date of this Agreement to the Effective Time, Buyer shall not, and shall not permit any of its Subsidiaries to, (a) amend, repeal or otherwise modify any provision of the Buyer Articles or the Buyer Bylaws in a manner that would adversely affect the Company, the stockholders of the Company or the transactions contemplated by this Agreement, (b) take any action, or knowingly fail to take any action, which action or failure to act is reasonably likely to prevent the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code, (c) take any action or willfully fail to take any action that is intended or may reasonably be expected to result in any of the conditions to the Merger set forth in Article VII not being satisfied, (d) take any action that would be reasonably expected to prevent, materially impede or delay beyond the date set forth in Section 8.1(c) the consummation of the transactions contemplated by this Agreement or (e) agree to take, make any commitment to take, or adopt any resolutions of its board of directors in support of, any of the actions prohibited by this Section 5.3. Without in any way limiting the foregoing, in no event shall Buyer take any action, or permit the

taking of any action, that will result in Buyer not having in cash or cash equivalents amounts, or available under Buyer Credit Facilities, sufficient to make the Loan Repayment at Closing.

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ARTICLE VI

ADDITIONAL AGREEMENTS

6.1 *Regulatory Matters*. (a) Buyer and the Company shall promptly prepare and file with the SEC the Form N-14, in which the Proxy Statement will be included as a prospectus. Each of Buyer and the Company shall use its reasonable best efforts to have the Form N-14 declared effective under the Securities Act as promptly as practicable after such filing, and the Company shall thereafter mail or deliver the Proxy Statement to its stockholders. Buyer shall also use its reasonable best efforts to obtain all necessary state securities law or Blue Sky permits and approvals required to carry out the transactions contemplated by this Agreement, and the Company shall furnish all information concerning the Company and the holders of Company Common Stock as may be reasonably requested in connection with any such action.

(b) The parties shall cooperate with each other and use their respective reasonable best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, to obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties (including any unions, works councils or other labor organizations) and Governmental Entities that are necessary or advisable to consummate the transactions contemplated by this Agreement (including the Merger), and to comply with the terms and conditions of all such permits, consents, approvals and authorizations of all such third parties or Governmental Entities. The Company and Buyer shall have the right to review in advance, and, to the extent practicable, each will consult the other on, in each case subject to applicable laws relating to the confidentiality of information, all the information relating to the Company or Buyer, as the case may be, and any of their respective Subsidiaries, that appear in any filing made with, or written materials submitted to, any third party or any Governmental Entity in connection with the transactions contemplated by this Agreement. In exercising the foregoing right, each of the parties shall act reasonably and as promptly as practicable. The parties shall consult with each other with respect to the obtaining of all permits, consents, approvals and authorizations of all third parties and Governmental Entities necessary or advisable to consummate the transactions contemplated by this Agreement and each party will keep the other apprised of the status of matters relating to completion of the transactions contemplated by this Agreement.

(c) Each of Buyer and the Company shall, upon request, furnish, and cause its independent registered public accountants and other agents and service providers to furnish to the other and the other s agents, all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Proxy Statement, the Form N-14 or any other statement, filing, notice or application made by or on behalf of Buyer, the Company or any of their respective Subsidiaries to any Governmental Entity in connection with the Merger and the other transactions contemplated by this Agreement.

(d) Each of Buyer and the Company shall promptly advise the other upon receiving any communication from any Governmental Entity the consent or approval of which is required for consummation of the transactions contemplated by this Agreement that causes such party to believe that there is a reasonable likelihood that any Buyer Requisite Regulatory Approval or Company Requisite Regulatory Approval, respectively, will not be obtained or that the receipt of any such approval may be materially delayed.

(e) Without in any way limiting the foregoing 6.1(a) through (d), the Buyer Parties (and their respective Affiliates, if applicable), on the one hand, and the Company, on the other hand, shall, if and to the extent required, file with the United States Federal Trade Commission ***(FTC)*** and the Antitrust Division of the United States Department of Justice ***(DOJ)*** a Notification and Report Form relating to this Agreement and the transactions contemplated hereby as required by the HSR Act within ten (10) calendar days following the execution and delivery of this Agreement. Each of Buyer and the Company shall (i) cooperate and coordinate with the other in the making of such filings (if required), (ii) supply the other with any information that may be required in order to make such filings, (iii) supply any

additional information that reasonably may be required or requested by the FTC or the DOJ, and (iv) take all action reasonably necessary to cause the expiration or termination of any applicable waiting period under the HSR Act applicable to the Merger as soon as practicable. Each of the Buyer Parties (and their respective Affiliates, if applicable), on the one hand, and the Company, on the other hand, shall promptly inform the other of any communication from any

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Governmental Authority regarding any of the transactions contemplated by this Agreement in connection with such filings. If any party hereto or Affiliate thereof shall receive a request for additional information or documentary material from any Governmental Authority with respect to the transactions contemplated by this Agreement pursuant to the HSR, then such party shall make (or cause to be made), as soon as reasonably practicable and after consultation with the other party, an appropriate response in compliance with such request.

6.2 *Access to Information*. (a) Upon reasonable notice and subject to applicable laws relating to the confidentiality of information, each of the Company and Buyer shall, and shall cause each of its Subsidiaries to, afford to the officers, employees, accountants, counsel, advisors, agents and other representatives of the other party, reasonable access, during normal business hours during the period prior to the Effective Time, to all its properties, books, contracts, commitments and records, and, during such period, such party shall, and shall cause its Subsidiaries to, make available to the other party (i) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of federal securities laws (other than reports or documents that such party is not permitted to disclose under applicable law) and (ii) all other information concerning its business, properties and personnel as the other party may reasonably request (in the case of a request by the Company, information concerning Buyer that is reasonably related to the prospective value of Buyer Common Stock or to Buyer s ability to consummate the transactions contemplated hereby). Neither the Company nor Buyer, nor any of their Subsidiaries, shall be required to provide access to or to disclose information where such access or disclosure would jeopardize the attorney-client privilege of such party or its Subsidiaries or contravene any law, rule, regulation, order, judgment, decree, fiduciary duty or binding agreement entered into prior to the date of this Agreement. The parties shall make appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

(b) The Company shall promptly (but in no event later than three (3) business days after the date of filing) provide Buyer with a copy of each Company SEC Report filed between the date hereof and the Effective Time. Each such Company SEC Report shall be prepared in accordance with the applicable forms, rules and regulations of the SEC and shall satisfy the standard set forth in Section 3.5(c). Buyer shall promptly (but in no event later than three (3) business days after the date of filing) provide the Company with a copy of each Buyer SEC Report filed between the date hereof and the Effective Time. Each such Buyer SEC Report shall be prepared in accordance with the applicable forms, rules and regulations of the SEC and shall satisfy the standard set forth in Section 4.5(c). In the event that the Company Board determines in good faith that a restatement of any previously filed SEC Company Report is required, the Company agrees to first consult with Buyer regarding such filing, and the contents thereof, which, prior to filing, shall be reasonably acceptable to Buyer.

(c) All information and materials provided pursuant to this Agreement shall be subject to the provisions of the Mutual Nondisclosure Agreement entered into between the parties as of April 13, 2009 (the ***Confidentiality Agreement***).

(d) No investigation by a party hereto or its representatives shall affect the representations and warranties of the other party set forth in this Agreement.

6.3 *Stockholder Approval*. The Company shall call a meeting of its stockholders to be held as soon as reasonably practicable for the purpose of obtaining the requisite stockholder approval required in connection with the Merger (the ***Company Stockholder Meeting***), on substantially the terms and conditions set forth in this Agreement, and shall, subject at all times to Section 6.10(e) and Section 8.1, use its reasonable best efforts to cause such meeting to occur as soon as reasonably practicable. Subject to Section 6.10(e) and Section 8.1, the Company Board shall use its reasonable best efforts to obtain from its stockholders the stockholder vote approving the Merger, on substantially the terms and conditions set forth in this Agreement, required to consummate the transactions contemplated by this Agreement.

6.4 *Exchange Listing*. Buyer shall provide The NASDAQ Stock Market with the notification required by Listing Rule 5250(e)(2) of The NASDAQ Stock Market no later than fifteen calendar days prior to the

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Effective Time and cause the shares of Buyer Common Stock issued in the Merger to be approved for listing on The NASDAQ Stock Market in accordance with the normal practices of The NASDAQ Stock Market.

6.5 *Employee Matters*. (a) Subject to Section 6.5(d), following the Closing Date and for at least twelve months thereafter, Buyer shall maintain or cause to be maintained employee benefit plans and compensation opportunities for the benefit of employees who are actively employed by the Company and its Subsidiaries on the Closing Date ***(Covered Employees)*** that provide employee benefits and compensation opportunities which, in the aggregate, are substantially comparable to the employee benefits and compensation opportunities that are generally made available to similarly situated employees of the Administrator or the Investment Adviser.

(b) To the extent that a Covered Employee becomes eligible to participate in an employee benefit plan maintained by Buyer or any of its Subsidiaries (other than the Company or its Subsidiaries) or the Administrator or the Investment Adviser, Buyer shall cause such employee benefit plan to (i) recognize the service of such Covered Employee with the Company or its Subsidiaries (or their predecessor entities) for purposes of eligibility, participation, vesting and, except under defined benefit pension plans, benefit accrual under such employee benefit plan of Buyer or any of its Subsidiaries or the Administrator or the Investment Adviser, to the same extent such service was recognized immediately prior to the Effective Time under a comparable Company Benefit Plan in which such Covered Employee was eligible to participate immediately prior to the Effective Time or, if there is no such comparable benefit plan, to the same extent such service was recognized under the Company 401(k) plan immediately prior to the Effective Time, and in each case only to the extent actually permissible under such employee benefit plan; provided that such recognition of service shall not operate to duplicate any benefits of a Covered Employee with respect to the same period of service and provided further that any Covered Employee whose employment is retained by the Administrator or the Investment Adviser following the Closing Date shall not be credited for hours worked for the Company or its Subsidiaries during 2009 solely for purposes of determining the Covered Employee s eligibility for participation in any profit sharing plans of the Administrator or the Investment Adviser during 2009, and (ii) with respect to any health, dental, vision plan or other welfare plan of Buyer or any of its Subsidiaries (other than the Company and its Subsidiaries) or the Administrator or the Investment Adviser in which any Covered Employee is eligible to participate for the plan year in which such Covered Employee is first eligible to participate, use its reasonable best efforts to cause its third-party insurance providers to (x) waive any pre-existing condition limitations or eligibility waiting periods under such plan of Buyer or any of its Subsidiaries or the Administrator or the Investment Adviser with respect to such Covered Employee to the extent such limitation would have been waived or satisfied under the Company Benefit Plan in which such Covered Employee participated immediately prior to the Effective Time and (y) recognize any health, dental or vision expenses incurred by such Covered Employee in the year that includes the Closing Date (or, if later, the year in which such Covered Employee is first eligible to participate) for purposes of any applicable deductible and annual out-of-pocket expense requirements under any such health, dental or vision plan of Buyer or any of its Subsidiaries or the Administrator or the Investment Adviser.

(c) From and after the Effective Time, Buyer shall, or shall cause its Subsidiaries to, honor, in accordance with the terms thereof as in effect as of the date hereof or as may be amended after the date hereof with the prior written consent of Buyer, each employment agreement listed on Section 3.11 of the Company Disclosure Schedule.

(d) Nothing in this Agreement shall be construed to limit the right of Buyer or any of its Subsidiaries or the Administrator or the Investment Adviser (including, following the Closing Date, the Company and its Subsidiaries) to amend or terminate any Company Benefit Plan or other employee benefit plan of Buyer or any of its Subsidiaries or the Administrator or the Investment Adviser, to the extent such amendment or termination is permitted by the terms of the applicable plan, nor shall anything in this Agreement be construed to require Buyer or any of its Subsidiaries (including, following the Closing Date, the Company and its Subsidiaries) or the Administrator or the Investment Adviser, to retain the employment of any particular Covered Employee for any fixed period of time following the Closing Date or at all. Without limiting the generality of Section 9.10, the provisions of this Agreement are solely for

the benefit of the parties to this Agreement, and no current or former employee, director or independent contractor or any other individual

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associated therewith shall be regarded for any purpose as a third-party beneficiary of the Agreement, and nothing herein shall be construed as an amendment to any Company Benefit Plan or other employee benefit plan for any purpose and nothing herein shall provide a basis for any claim by any such employee.

6.6 *Indemnification; Directors and Officers Insurance.*

(a) In the event of any threatened or actual claim, action, suit, proceeding or investigation, whether civil, criminal or administrative (a ***Claim***), including any such Claim in which any individual who is now, or has been at any time prior to the date of this Agreement, or who becomes prior to the Effective Time, a director or officer of the Company or any of its Subsidiaries or who is or was serving at the request of the Company or any of its Subsidiaries as a director or officer of another person (the ***Indemnified Parties***), is, or is threatened to be, made a party based in whole or in part on, or arising in whole or in part out of, or pertaining to (i) the fact that he or she is or was a director or officer of the Company or any of its Subsidiaries prior to the Effective Time or (ii) this Agreement or any of the transactions contemplated by this Agreement, whether asserted or arising before or after the Effective Time, the parties shall cooperate and use their best efforts to defend against and respond thereto. All rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time now existing in favor of any Indemnified Party as provided in their respective certificates or articles of incorporation or by-laws (or comparable Organizational Documents), and any existing indemnification agreements set forth in Section 6.6 of the Company Disclosure Schedule, shall, notwithstanding that the separate corporate existence of the Company shall cease as of the Effective Time, survive the Merger as a contractual obligation of the Buyer as the Surviving Company and shall continue in full force and effect in accordance with their terms, and shall not be amended, repealed or otherwise modified in any manner that would adversely affect the rights thereunder of such individuals for acts or omissions occurring at or prior to the Effective Time or taken at the request of Buyer pursuant to Section 6.7 hereof, it being understood that nothing in this sentence shall require any amendment to the certificate of incorporation or by-laws of the Buyer as the Surviving Company.

(b) From and after the Effective Time, Buyer, as the Surviving Company in the Merger, shall to the fullest extent permitted by applicable law, indemnify, defend and hold harmless, and provide advancement of expenses to, each Indemnified Party against all losses, claims, damages, costs, expenses, liabilities or judgments or amounts that are paid in settlement of or in connection with any Claim based in whole or in part on or arising in whole or in part out of the fact that such person is or was a director or officer of the Company or any of its Subsidiaries, and pertaining to any matter existing or occurring, or any acts or omissions occurring, at or prior to the Effective Time, whether asserted or claimed prior to, or at or after, the Effective Time (including matters, acts or omissions occurring in connection with the approval of this Agreement and the consummation of the transactions contemplated hereby) or taken at the request of Buyer pursuant to Section 6.7 hereof.

(c) Buyer shall cause the individuals serving as officers and directors of the Company or any of its Subsidiaries immediately prior to the Effective Time to be covered for a period of six years from the Effective Time by the directors and officers liability insurance policy maintained by the Company through the purchase of so-called tail insurance (provided that Buyer may substitute therefor policies of at least the same coverage and amounts containing terms and conditions that are not less advantageous than such policy) with respect to acts or omissions occurring prior to the Effective Time that were committed by such officers and directors in their capacity as such. Immediately prior to the Effective Time, the Company shall pay to Buyer the cost of obtaining such insurance for the entire six year period referred to above; provided, however, that if Company does not have sufficient funds to pay to Buyer all or any part of the cost of obtaining such insurance for the entire six year period referred to above or such funds are not sufficient to maintain such insurance for the entire six year period referred to above, then the Buyer shall be obligated to pay for, obtain and maintain such insurance. In connection with the foregoing, neither Company nor Buyer shall be required to expend in the aggregate for the entire six year period referred to above amount in excess of 300% of the annual premiums currently paid by the Company for such insurance ***(Insurance Amount)***. If Buyer is unable to

maintain such policy (or such substitute policy) as a result of the preceding sentence, Buyer shall obtain as much comparable insurance as is available for Insurance Amount.

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(d) The provisions of this Section 6.6 shall survive the Effective Time and are intended to be for the benefit of, and shall be enforceable by, each Indemnified Party and his or her heirs and representatives.

6.7 *Additional Agreements*. In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement or to vest the Surviving Company with full title to all properties, assets, rights, approvals, immunities and franchises of either party to the Merger, the proper officers and directors of each party and their respective Subsidiaries shall, at Buyer s sole expense, take all such necessary action as may be reasonably requested by Buyer.

6.8 *Advice of Changes*. Each of Buyer and the Company shall promptly advise the other of any change or event (i) having or reasonably likely to have a Material Adverse Change on it, (ii) that it believes would or would be reasonably likely to cause or constitute a breach of any of its representations, warranties or covenants contained in this Agreement or (iii) that would result in the conditions to closing set forth in Article VII not being satisfied; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties (or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement.

6.9 *Exemption from Liability Under Section 16(b)*. Prior to the Effective Time, Buyer and the Company shall each take all such steps as may be necessary or appropriate to cause any disposition of shares of Company Common Stock or conversion of any derivative securities in respect of such shares of Company Common Stock in connection with the consummation of the transactions contemplated by this Agreement to be exempt under Rule 16b-3 promulgated under the Exchange Act to the extent permitted thereunder.

6.10 *No Solicitation*.

(a) As used in this Agreement, (i) ***Alternative Proposal*** means any written proposal for a merger, share exchange, consolidation, sale of assets, sale of shares of capital stock (including by way of a tender offer) or similar transactions involving the Company or any of its Subsidiaries or the stockholders of the Company or any of its Subsidiaries received by the Company from a third party (or group of persons) not affiliated with the Company or Buyer (a ***Third Party***) that, if consummated, would constitute an Alternative Transaction, (ii) ***Alternative Transaction*** means any of (w) a transaction pursuant to which a Third Party, directly or indirectly, acquires or would acquire more than 75% of the outstanding shares of the Company or outstanding voting power or of any preferred stock that would be entitled to a class or series vote with respect to a merger or other reorganization involving the Company, whether from the Company or pursuant to a tender offer or exchange offer or otherwise, (x) a merger, share exchange, consolidation or other business combination involving the Company, (y) any transaction pursuant to which a Third Party acquires or would acquire control of assets (including for this purpose the outstanding equity securities of subsidiaries of the Company and securities of the entity surviving any merger or business combination including any of the Company s Subsidiaries) of the Company or any of its Subsidiaries representing more than 75% of the fair market value of all the assets, net revenues or net income of the Company and its Subsidiaries, taken as a whole, immediately prior to such transaction or (z) any other consolidation, business combination, recapitalization or similar transaction of similar scope involving the Company or any of its Subsidiaries other than the transactions contemplated by this Agreement; provided that, for purposes of Section 8.4, any transaction contemplated by clauses (x) or (z) shall be limited to transactions to which the Company is a party and in which the stockholders of the Company immediately prior to the consummation thereof (excluding for this purpose the holders of any shares of the Company issued after the date hereof) would not hold at least 662/3% of the total voting power of the surviving company in such transaction or of its publicly traded parent corporation and (iii) ***Superior Proposal*** means any Alternative Proposal made by a Third Party that (A) is legally binding on the Third Party but not on the Company, (B) is fully financed (including the payments required by Section 1.9) and contains no financing contingency or obligation to obtain consent from a lender or equity source, (C) contains no condition to closing materially more burdensome on the Company, or in the Company Board s reasonable and good faith judgment (after consultation with its financial advisor and outside legal counsel) making it

materially less likely that the conditions to the closing of such transaction would be satisfied than, the conditions to Closing set forth herein (with, for the avoidance of doubt, a condition for a vote of the Third Party s shareholders on any matter being materially more burdensome and making it

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materially less likely that all conditions to such Alternative Proposal will be satisfied), and (D) which is otherwise on terms which the Company Board determines in its reasonable good faith judgment (after consultation with its financial advisor and outside legal counsel), taking into account, among other things, all legal, financial, regulatory and other aspects of the proposal and the person making the proposal, that the proposal, (I) if consummated would result in a transaction that is more favorable, from a financial point of view, to the Company s stockholders (after taking into account the payments required under Section 8.4 hereof) than the Merger and the other transactions contemplated hereby and (II) is reasonably certain of being completed.

(b) None of the Company, its Subsidiaries or any officer, director, employee, agent or representative (including any investment banker, financial advisor, attorney, accountant or other representative) of the Company or any of its Subsidiaries shall directly or indirectly (i) solicit, initiate, encourage, facilitate (including by way of furnishing information) or take any other action designed to facilitate any inquiries or proposals regarding any Alternative Proposal or Alternative Transaction, (ii) participate in any discussions or negotiations regarding an Alternative Proposal or Alternative Transaction or (iii) enter into any agreement regarding any Alternative Proposal or Alternative Transaction. Without in any way limiting the foregoing, the Company and its Subsidiaries shall immediately cease and cause to be terminated any existing discussions or negotiations with any persons (other than Buyer) conducted heretofore with respect to any of the foregoing. the Company shall not, and shall cause its Subsidiaries not to, terminate, waive, amend or modify any provision of, or grant permission or request under, any standstill or confidentiality agreement to which it or any of its Subsidiaries is or becomes a party, and shall, and shall cause its Subsidiaries to, use reasonable best efforts to enforce the provisions of any such agreement.

(c) Notwithstanding the foregoing Section 6.10(b), the Company Board shall be permitted, prior to the meeting of the Company stockholders to be held pursuant to Section 6.3, and subject to compliance with the other terms of this Section 6.10, to consider and participate in discussions and negotiations with respect to a bona fide Alternative Proposal received by the Company from a Third Party, if and only to the extent that, and so long as (i) such Alternative Proposal is a Superior Proposal except for clause (A) of the definition of Superior Proposal (ii) such Alternative Proposal was not solicited by the Company, its Subsidiaries or any officer, director, employee, agent or representative (including any investment banker, financial advisor, attorney, accountant or other representative) of the Company or any of its Subsidiaries in violation of Section 6.10(b), (iii) the Alternative Proposal is from a Third Party that is qualified to make such proposal, (iv) the Company Board reasonably determines in good faith (after consultation with outside legal counsel) that failure to do so would cause it to violate its fiduciary duties under applicable law, (v) prior to the Company Board engaging in any such discussions or negotiations, the Third Party first enters into a confidentiality agreement with the Company on terms substantially similar to, and no less favorable to the Company than, those contained in the Confidentiality Agreement, and (vi) the Third Party deposits with the Company a non-refundable cash deposit in an amount equal to the Termination Fee (the ***Third Party Deposit***).

(d) The Company shall notify Buyer promptly (but in no event later than 48 hours) after receipt of any Alternative Proposal, or any material modification of or material amendment to any Alternative Proposal, or any request for nonpublic information relating to the Company or any of its Subsidiaries or for access to the properties, books or records of the Company or any of its Subsidiaries, other than any such request that does not relate to an Alternative Proposal. Such notice to Buyer shall be made orally and in writing, and shall indicate the identity of the person making the Alternative Proposal or intending to make or considering making an Alternative Proposal or requesting non-public information or access to the books and records of the Company or any of its Subsidiaries, and a copy (if in writing) and summary of the material terms of any such Alternative Proposal or modification or amendment to an Alternative Proposal. The Company shall keep Buyer fully informed, on a current basis, of any material changes in the status and any material changes or modifications in the terms of any such Alternative Proposal, indication or request. The Company shall also provide Buyer 72 hours written notice before it enters into any discussions or negotiations concerning any Alternative Proposal in accordance with Section 6.10(c), and from and after receipt of such notice the Company and its advisors shall negotiate in good faith with Buyer to make adjustments in the terms and

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conditions of this Agreement such that the proposed Alternative Proposal would no longer constitute a Superior Proposal.

(e) Except as expressly permitted by this Section 6.10(e), neither the Company Board nor any committee thereof shall (i) withdraw, modify or qualify, or propose publicly to withdraw, modify or qualify, the recommendation by the Company Board of this Agreement and/or the Merger to the Company s stockholders, (ii) take any public action or make any public statement in connection with the meeting of the Company stockholders to be held pursuant to Section 6.3 inconsistent with such recommendation or (iii) approve or recommend, or publicly propose to approve or recommend, or fail to recommend against, any Alternative Proposal (any of the actions described in clauses (i), (ii) or (iii), a ***Change of Recommendation***). Notwithstanding the foregoing, the Company Board may make a Change of Recommendation, if, and only if, each of the following conditions is satisfied:

(i) it receives, prior to the date on which the stockholders of the Company have approved the Merger, an Alternative Proposal not solicited in any manner in violation of Section 6.10(b);

(ii) the Company has not breached in any material respect any of the provisions set forth in Section 6.3 or this Section 6.10;

(iii) it reasonably determines in good faith (after consultation with outside legal counsel and prior to the date on which the stockholders of the Company have approved the Merger), that in light of a Superior Proposal the failure to effect such Change of Recommendation would cause it to violate its fiduciary duties to the Company stockholders under applicable law;

(iv) Buyer has received written notice from the Company (a ***Change of Recommendation Notice***) at least ten business days prior to such Change of Recommendation, which notice shall (1) state expressly that the Company has received a Alternative Proposal which the Company Board has determined is a Superior Proposal and that the Company intends to effect a Change of Recommendation and the manner in which it intends or may intend to do so and (2) include the identity of the person making such Alternative Proposal and a copy (if in writing) and summary of material terms of such Alternative Proposal; provided that any material amendment to the terms of such Alternative Proposal shall require a Change of Recommendation Notice at least two business days prior to a new Change of Recommendation; and

(v) during any such notice period, the Company and its advisors has negotiated in good faith with Buyer to make adjustments in the terms and conditions of this Agreement such that such Alternative Proposal would no longer constitute a Superior Proposal.

(f) The Company shall ensure that the officers, directors and all employees, agents and representatives (including any investment bankers, financial advisors, attorneys, accountants or other representatives) of the Company or its Subsidiaries are aware of the restrictions described in this Section 6.10 as reasonably necessary to avoid violations thereof. It is understood that any violation of the restrictions set forth in this Section 6.10 by any officer, director, employee, agent or representative (including any investment banker, financial advisor, attorney, accountant or other representative) of the Company or its Subsidiaries shall be deemed to be a breach of this Section 6.10 by the Company.

(g) Nothing contained in this Section 6.10 shall prohibit the Company or its Subsidiaries from taking and disclosing to its stockholders a position required by Rule 14e-2(a) or Rule 14d-9 promulgated under the Exchange Act.

6.11 *Dividends*. After the date of this Agreement, (a) the Company shall terminate promptly any feature of its dividend reinvestment plan providing for the issuance of shares by the Company, (b) each of Buyer and the Company

shall coordinate with the other regarding the declaration of any dividends in respect of Buyer Common Stock and Company Common Stock and the record dates and payment dates relating thereto, it being the intention of the parties that holders of Company Common Stock shall receive the Final Company Dividend but not any other dividend from the Company for the quarter in which the Effective Time occurs, and (c) the Company shall take all appropriate and practicable steps to ensure, to the Buyer s reasonable satisfaction, that

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(x) any Final Company Dividend shall be payable in cash or , except as provided in clause (y), Company Common Stock in accordance with IRS Revenue Procedure 2009-15, 2009-4 I.R.B. 356 (Rev. Proc. 2009-15), and (y) in the event that the Company declares but does not pay the Final Company Dividend prior to the Closing Date, then the valuation period for the Company Common Stock for purposes of Section 3(5) of Rev.Proc. 2009-15 shall end within five (5) business days prior to the Closing Date, subject to the clerical requirements of the stock transfer agent.

6.12 *Stockholder Litigation*. The Company shall give Buyer the opportunity to participate in the defense or settlement of any stockholder litigation against the Company and/or its directors relating to the transactions contemplated by this Agreement. The Company agrees that it shall not settle or offer to settle any litigation commenced on or after the date hereof against the Company or any of its directors or executive officers by any stockholder of the Company relating to this Agreement, the Merger, any other transaction contemplated hereby or otherwise, without the prior written consent of Buyer.

6.13 *Loss Information*. Prior to the Effective Time, the Company shall deliver to the Buyer a schedule setting forth the net unrealized built-in gain, net unrealized built-in losses and capital loss carryforwards of the Company and each Subsidiary for all taxable years since the Company s inception.

ARTICLE VII

CONDITIONS PRECEDENT

7.1 *Conditions to Each Party s Obligation To Effect the Merger*. The respective obligations of the parties to effect the Merger shall be subject to the satisfaction at or prior to the Effective Time of the following conditions:

(a) *Stockholder Approval*. This Agreement, on substantially the terms and conditions set forth in this Agreement, shall have been approved and adopted by the Requisite Stockholder Approval.

(b) *Form N-14*. The Form N-14 shall have become effective under the Securities Act and no stop order suspending the effectiveness of the Form N-14 shall have been issued and no proceedings for that purpose shall have been initiated or threatened by the SEC.

(c) *No Injunctions or Restraints; Illegality*. No order, injunction or decree issued by any court or agency of competent jurisdiction or other law preventing or making illegal the consummation of the Merger or any of the other transactions contemplated by this Agreement shall be in effect.

(d) *HSR Act*. Any applicable waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have expired or been terminated.

(e) *No Litigation*. There shall be no pending suit, action or proceeding by any Governmental Entity, in each case that has a reasonable likelihood of success, (i) challenging the acquisition by Buyer of any Company Common Stock, seeking to restrain or prohibit the consummation of the Merger or any other transaction or seeking to obtain from the Company or Buyer any damages that are material in relation to the Company and Company Subsidiaries taken as a whole, (ii) seeking to prohibit or limit the ownership or operation by the Company, Buyer or any of their respective Subsidiaries of any material portion of the business or assets of the Company, Buyer or any of their respective Subsidiaries, or to compel the Company, Buyer or any of their respective Subsidiaries to dispose of or hold separate any material portion of the business or assets of the Company, Buyer or any of their respective Subsidiaries, as a result of the Merger or any other transaction, (iii) seeking to impose limitations on the ability of Buyer to acquire or hold, or exercise full rights of ownership of, any shares of Company Common Stock purchased by it on all matters properly presented to the stockholders of the Company or (iv) seeking to prohibit Buyer or any of its Subsidiaries from

effectively controlling in any material respect the business or operations of the Company and Company Subsidiaries.

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7.2 *Conditions to Obligations of Buyer*. The obligation of Buyer to effect the Merger is also subject to the satisfaction, or waiver by Buyer, at or prior to the Effective Time, of the following conditions:

(a) *Representations and Warranties*. Subject to the standard set forth in Section 9.2, the representations and warranties of the Company set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except that representations and warranties that by their terms speak specifically as of the date of this Agreement or another date shall be true and correct as of such date); and Buyer shall have received a certificate signed on behalf of the Company by the Chief Executive Officer or the Chief Financial Officer of the Company to the foregoing effect.

(b) *Performance of Obligations of the Company*. The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Effective Time; and Buyer shall have received a certificate signed on behalf of the Company by the Chief Executive Officer or the Chief Financial Officer of the Company to such effect.

(c) *Federal Tax Opinion*. Buyer shall have received the written opinion dated the Closing Date of Sutherland Asbill & Brennan LLP, the Company s counsel, substantially to the effect that, on the basis of the law in effect at the Effective Time, and facts, representations and assumptions set forth in such opinion that are consistent with the state of facts existing at the Effective Time, that the Merger will be treated as a reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, counsel may require and rely upon customary representations contained in certificates of officers of the Company and Buyer.

(d) *Regulatory Approvals*. All regulatory approvals set forth in Section 4.4 required to consummate the transactions contemplated by this Agreement, including the Merger, and not otherwise addressed in Section 7.1, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred to as the ***Buyer Requisite Regulatory Approvals***).

(e) *Pay-Off Letters*. The Company shall have delivered to Buyer payoff letters from the Lenders under the Company Securitization Documents, in form and substance reasonably satisfactory to Buyer, with respect to the Company Securitization Documents.

(f) *Final Company Dividend*. The Company shall have complied with Section 2.3(c) of this Agreement.

7.3 *Conditions to Obligations of Company*. The obligation of the Company to effect the Merger is also subject to the satisfaction or waiver by the Company at or prior to the Effective Time of the following conditions:

(a) *Representations and Warranties*. Subject to the standard set forth in Section 9.2, the representations and warranties of Buyer set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Effective Time as though made on and as of the Effective Time (except that representations and warranties that by their terms speak specifically as of the date of this Agreement or another date shall be true and correct as of such date); and the Company shall have received a certificate signed on behalf of Buyer by the Chief Executive Officer or the Chief Financial Officer of Buyer to the foregoing effect.

(b) *Performance of Obligations of Buyer*. Buyer shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Effective Time, and the Company shall have received a certificate signed on behalf of Buyer by the Chief Executive Officer or the Chief Financial Officer of Buyer to such effect.

(c) *Legal Opinion*. The Company shall have received the written opinion dated the Closing Date of Sutherland Asbill & Brennan LLP, the Company s counsel, substantially to the effect that, on the basis of the law in effect at the Effective Time, facts, representations and assumptions set forth in such opinion that are consistent with the state of facts existing at the Effective Time, the Merger will be treated as a

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reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, counsel may require and rely upon customary representations contained in certificates of officers of the Company and Buyer.

(d) *Regulatory Approvals*. All regulatory approvals set forth in Section 3.4 required to consummate the transactions contemplated by this Agreement, including the Merger, and not otherwise addressed in Section 7.1, shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired (all such approvals and the expiration of all such waiting periods being referred as the ***Company Requisite Regulatory Approvals***).

(e) *Payoff Letters*. Buyer shall have taken such steps as reasonably requested by the Lenders under the Company Securitization Documents so as to provide for the making of the Loan Repayment contemplated by Section 1.9, effective as of the Effective Time.

ARTICLE VIII

TERMINATION AND AMENDMENT

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

(a) by mutual consent of the Company and Buyer in a written instrument authorized by the Company Board and Buyer Board;

(b) by either the Company or Buyer, if any Governmental Entity that must grant a Buyer Requisite Regulatory Approval or a Company Requisite Regulatory Approval has denied approval of the Merger and such denial has become final and nonappealable or any Governmental Entity of competent jurisdiction shall have issued a final and nonappealable order, injunction or decree permanently enjoining or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this Agreement;

(c) by either the Company or Buyer, if the Merger shall not have been consummated on or before December 15, 2009 unless the failure of the Closing to occur by such date shall be due to the failure of the party seeking to terminate this Agreement to perform or observe the covenants and agreements of such party set forth in this Agreement;

(d) by either Buyer or the Company, at any time prior to the Effective Time, in the event that the Company shall have failed to obtain the Requisite Stockholder Approval at the meeting of Company Stockholders at which a vote is taken on the Merger; or

(e) by either the Company or Buyer (provided that the terminating party is not then in material breach of any representation, warranty, covenant or other agreement contained herein), if there shall have been a breach of any of the covenants or agreements or any of the representations or warranties set forth in this Agreement on the part of the Company, in the case of a termination by Buyer, or Buyer, in the case of a termination by the Company, which breach, either individually or in the aggregate, would result in, if occurring or continuing on the Closing Date, the failure of the conditions set forth in Section 7.2 or 7.3, as the case may be, and which is not cured within 30 days following written notice to the party committing such breach or by its nature or timing cannot be cured within such time period; or

(f) by Buyer, (i) at any time prior to receipt of the Requisite Stockholder Approval and within ten (10) Business Days after the Company Board shall have effected a Change of Recommendation, (ii) in the event that an Alternative Proposal structured as a tender or exchange offer for Company Common Stock is commenced by a Person unaffiliated

with Buyer and, within ten (10) Business Days after the public announcement of the commencement of such proposed Alternative Proposal, the Company shall not have issued a public statement (and filed a Schedule 14D-9 pursuant to Rule 14e-2 and Rule 14d-9 promulgated under the Exchange Act) reaffirming the Board Recommendation and recommending that the Company Stockholders reject such Acquisition Proposal and not tender any shares of Company

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Common Stock into such tender or exchange offer or (iii) the Company shall have materially breached any of its obligations under Section 6.10, including by the Company Board approving, or authorizing the Company or any of its Subsidiaries to enter into, a merger agreement, letter of intent, acquisition agreement, purchase agreement or other similar agreement with respect to an Acquisition Proposal.

(g) by the Company, in the event that

(i) (A) the Company shall have received a Superior Proposal, (B) subject to the Company s obligations under Section 6.10(e)(v), the Company Board or any authorized committee thereof shall have authorized the Company to enter into a definitive agreement to consummate the transaction contemplated by such Superior Proposal, and (C) concurrently with the termination of this Agreement, the Company pays Buyer the Company Termination Fee contemplated by Section 8.4 and enters into the definitive agreement to consummate the transaction contemplated by such Superior Proposal; or

(ii) the Company Board or any authorized committee thereof shall have effected a Company Board Recommendation Change in accordance with the terms of Section 6.10.

The party desiring to terminate this Agreement pursuant to clause (b), (c), (d), (e), (f) or (g) of this Section 8.1 shall give written notice of such termination to the other party in accordance with Section 9.4, specifying the provision or provisions hereof pursuant to which such termination is effected.

8.2 *Effect of Termination*. In the event of termination of this Agreement by either the Company or Buyer as provided in Section 8.1, this Agreement shall forthwith become void and have no effect, and none of the Company, Buyer, any of their respective Subsidiaries or any of the officers or directors of any of them shall have any liability of any nature whatsoever under this Agreement, or in connection with the transactions contemplated by this Agreement, except that (i) Sections 6.2(b), 8.2, 8.3, 8.4, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 9.11 and 9.12 shall survive any termination of this Agreement, and (ii) neither the Company nor Buyer shall be relieved or released from any liabilities or damages arising out of its knowing breach of any provision of this Agreement.

8.3 *Fees and Expenses*. All fees and expenses incurred in connection with the Merger, this Agreement, and the transactions contemplated by this Agreement (including, without limitation, all fees and expenses of any advisors to Buyer) shall, to the extent such funds are available to the Company, be paid by Company at the Closing immediately prior to the Effective Time. Notwithstanding the foregoing, in the event the Merger is not consummated, all fees and expenses incurred in connection with the Merger, this Agreement, and the transactions contemplated by this Agreement shall be paid by the party incurring such fees or expenses; provided, that (a) the costs and expenses of printing and mailing the Proxy Statement shall be borne by Company, (b) all filing and other fees paid to the SEC in connection with the Merger shall be borne by Buyer, (c) the fees of any HSR filing shall be borne equally by the Buyer and Company, and (d) the terms of that certain letter agreement executed between Company and Buyer on July 7, 2009 (the ***Expense Letter***) with respect to the payment of certain fees and expenses of Buyer on the terms and conditions set forth therein shall apply.

8.4 *Termination Fee; Expense Reimbursement; Make Whole Payments*.

(a) In the event that this Agreement is terminated pursuant to Section 8.1(f) or (g) then, provided that Buyer was not in material breach of its representations, warranties, covenants or agreements hereunder at the time of termination, the Company will pay to Buyer a fee in an amount equal to $3,200,000 (the ***Termination Fee***).

(b) In the event that this Agreement is terminated by Buyer pursuant to Section 8.1(d) or (e) then, provided that Buyer was not in material breach of any of its representations, warranties, covenants or agreements hereunder at the time of

termination, the Company will pay to Buyer such amounts owed in accordance with the terms and conditions of the Expense Letter (the ***Expense Reimbursement***).

(c) In the event that this Agreement is terminated pursuant to Section 8.1(d) or (e), and the Company pays to Buyer the Expense Reimbursement, but not the Termination Fee, and within one year from the date of

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such termination the Company enters into an agreement to consummate an Alternative Transaction, then the Company shall pay to Buyer an amount equal to (i) the Termination Fee, minus (ii) the Expense Reimbursement (the ***Make Whole Payment***). For purposes of this Section 8.4(c) above, an Alternative Transaction shall be limited to an Alternative Transaction with respect to which the Company had negotiations prior to termination of this Agreement.

(d) Payments of any amount under this Section 8.4 shall be payable to Buyer by wire transfer of immediately available funds as follows: (i) a Termination Fee or Expense Reimbursement shall be payable no later than two business days after the date on which this Agreement is terminated by Buyer and immediately prior to the time of termination by the Company, and (ii) a Make Whole Payment shall be due and payable within two business days after entry into an agreement with respect to the relevant Alternative Transaction, as determined in accordance with Section 8.4(c) above. The parties hereto acknowledge and hereby agree that in no event shall the Company be required to pay a Termination Fee on more than one occasion, an Expense Reimbursement on more than one occasion or Make Whole Payment on more than one occasion, whether or not the relevant fee, reimbursement or payment may be payable under more than one provision of this Agreement at the same or at different times and the occurrence of different events.

8.5 *Amendment*. This Agreement may be amended by the parties, by action taken or authorized by their respective Boards of Directors, at any time before or after approval of the matters presented in connection with Merger by the stockholders of the Company; provided, however, that after any approval of the transactions contemplated by this Agreement by the stockholders of the Company, there may not be, without further approval of such stockholders, any amendment of this Agreement that requires further approval under applicable law. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

8.6 *Extension; Waiver*. At any time prior to the Effective Time, the parties, by action taken or authorized by their respective Board of Directors, may, to the extent legally allowed, (a) extend the time for the performance of any of the obligations or other acts of the other party, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or (c) waive compliance with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party, but such extension or waiver or failure to insist on strict compliance with an obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

ARTICLE IX

GENERAL PROVISIONS

9.1 *Closing*. On the terms and subject to the conditions set forth in this Agreement, the closing of the Merger (the ***Closing***) shall take place at 10:00 a.m. on a date and at a place to be specified by the parties, which date shall be no later than five business days after the satisfaction or waiver (subject to applicable law) of the latest to occur of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied or waived at the Closing), unless extended by mutual agreement of the parties (the ***Closing Date***).

9.2 *Standard*. No representation or warranty of the Company contained in Article III or of Buyer contained in Article IV shall be deemed untrue, inaccurate or incorrect for purposes of Section 7.2(a) or 7.3(a), as applicable, under this Agreement, as a consequence of the existence or absence of any fact, circumstance or event unless such fact, circumstance or event, individually or when taken together with all other facts, circumstances or events inconsistent with any representations or warranties contained in Article III, in the case of the Company, or Article IV, in the case of Buyer, has had or would reasonably be expected to have a Material Adverse Change with respect to the Company or Buyer, respectively (disregarding for purposes of this Section 9.2 all qualifications or limitations set forth in any representations or warranties as to materiality, material adverse effect and words of similar import). Notwithstanding

the immediately preceding sentence, the representations and warranties contained in (x) Section 3.2(a) shall be deemed untrue

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and incorrect if not true and correct except to a *de minimis* extent (relative to Section 3.2(a) taken as a whole), (y) Sections 3.2(b), 3.3(a), 3.3(b)(i), 3.7 and 3.20, in the case of the Company, and Sections 4.2, 4.3(a), 4.3(b)(i) and 4.7, in the case of Buyer, shall be deemed untrue and incorrect if not true and correct in all material respects and (z) Section 3.8(a) and Section 3.10(b), in the case of the Company, and Section 4.8 and Section 4.10(b), in the case of Buyer, shall be deemed untrue and incorrect if not true and correct in all respects.

9.3 *Nonsurvival of Representations, Warranties and Agreements*. None of the representations, warranties, covenants and agreements set forth in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time, except for Section 6.6 and for those other covenants and agreements contained in this Agreement that by their terms apply or are to be performed in whole or in part after the Effective Time.

9.4 *Notices*. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed given if delivered personally, sent via facsimile (with confirmation), mailed by registered or certified mail (return receipt requested) or delivered by an express courier (with confirmation) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to the Company, to:

Patriot Capital Funding, Inc.
274 Riverside Ave.
Westport, CT 06880

Attention: Richard P. Buckanavage
Fax: (203) 227-5257

with a copy to:

Sutherland, Asbill & Brennan LLP
1275 Pennsylvania Ave., NW
Washington, DC 20004

Attention: Harry S. Pangas, Esq.
Fax: (202) 637-3593

and

(b) if to Buyer, to:

Prospect Capital Corporation
10 East 40th Street
New York, NY 10016

Attention: Joseph A. Ferraro, Esq.
Facsimile: (212) 448-9652

with a copy to:

Skadden Arps
4 Times Square

New York, NY 10036

Attention: Richard T. Prins
Fax: (917) 777-2790

9.5 *Interpretation*. When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to a Article or Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words include, includes or including are used in this Agreement, they shall be deemed to be followed by the

words without limitation. The Company Disclosure Schedule and the Buyer Disclosure Schedule, as well as all other schedules and all exhibits hereto, shall be deemed part of this Agreement and included in any reference to this Agreement. This Agreement shall not be interpreted or construed to require any person to take any action, or fail to take any action, if to do so would violate any applicable law.

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

9.7 *Entire Agreement*. This Agreement (including the documents and the instruments referred to in this Agreement), together with the Confidentiality Agreement and the Expense Letter, constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement, other than the Confidentiality Agreement.

9.8 *Governing Law; Jurisdiction*. This Agreement shall be governed and construed in accordance with the internal laws of the State of Delaware applicable to contracts made and wholly-performed within such state, without regard to any applicable conflicts of law principles. The parties hereto agree that any suit, action or proceeding brought by either party to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in any federal or state court located in the State of Delaware. Each of the parties hereto submits to the jurisdiction of any such court in any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of, or in connection with, this Agreement or the transactions contemplated hereby and hereby irrevocably waives the benefit of jurisdiction derived from present or future domicile or otherwise in such action or proceeding. Each party hereto irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

9.9 *Publicity*. Neither the Company nor Buyer shall, and neither the Company nor Buyer shall permit any of its Subsidiaries to, issue or cause the publication of any press release or other public announcement with respect to, or otherwise make any public statement concerning, the transactions contemplated by this Agreement without the prior consent (which consent shall not be unreasonably withheld) of Buyer, in the case of a proposed announcement or statement by the Company, or the Company, in the case of a proposed announcement or statement by Buyer; provided, however, that either party may, without the prior consent of the other party (but after prior consultation with the other party to the extent practicable under the circumstances) issue or cause the publication of any press release or other public announcement to the extent required by law or by the rules and regulations of The NASDAQ Stock Market.

9.10 *Assignment; Third Party Beneficiaries*. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned by either of the parties (whether by operation of law or otherwise) without the prior written consent of the other party. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by each of the parties and their respective successors and assigns. Except as otherwise specifically provided in Section 6.6, this Agreement (including the documents and instruments referred to in this Agreement) is not intended to and does not confer upon any person other than the parties hereto any rights or remedies under this Agreement. Except as provided in Section 6.6 only, Buyer, Investment Adviser, Administrator and the Company hereby agree that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other parties 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, without limitation, the right to rely upon such representations and warranties set forth herein. The parties hereto further agree that the rights of third party beneficiaries under Section 6.6 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. 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.

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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.

9.11 *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 to be performed by Buyer was not performed in accordance with its specific terms or was 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 Buyer of any of its respective covenants or obligations set forth in this Agreement, the Company shall be entitled to an injunction or injunctions to prevent or restrain breaches or threatened breaches of this Agreement 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 the other under this Agreement. Buyer 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 Buyer, 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 Buyer under this Agreement. The parties hereto further agree that (i) by seeking the remedies provided for in this Section 9.11(b), the Company shall not in any respect waive its right to seek any other form of relief that may be available to a party under this Agreement (including monetary damages) in the event that this Agreement has been terminated or in the event that the remedies provided for in this Section 9.11(b) are not available or otherwise are not granted, and (ii) nothing set forth in this Section 9.11(b) shall require the Company to institute any proceeding for (or limit the Company s right to institute any proceeding for) specific performance under this Section 9.11(b) prior or as a condition to exercising any termination right under Section 8.1 (and pursuing damages after such termination), nor shall the commencement of any legal proceeding pursuant to this Section 9.11(b) or anything set forth in this Section 9.11(b) restrict or limit the Company s right to terminate this Agreement in accordance with Section 8.1 or pursue any other remedies under this Agreement that may be available then or thereafter.

(c) Notwithstanding anything to the contrary set forth herein, the parties hereto expressly acknowledge and agree that the remedies set forth in Section 8.4 shall be the sole and exclusive remedies available to the Buyer in the event this Agreement is terminated under Section 8.1(f) or (g). To the extent Buyer is entitled to receive the Termination Fee, Expense Reimbursement and/or Make Whole Payment, the receipt of such amounts shall be deemed to be full and final payment for any and all losses or damages suffered or incurred by Buyer or any of its respective Affiliates or any other Person in connection with this Agreement (and the termination hereof), the transactions contemplated hereby (and the abandonment thereof) or any matter forming the basis for such termination, and none of Buyer nor any of its Affiliates or any other Person shall be entitled to bring or maintain any other claim, action or proceeding against the Company or any of its Affiliates arising out of this Agreement, any of the transactions contemplated hereby or any matters forming the basis for such termination.

9.12 *Waiver of Jury Trial*. Each party acknowledges and agrees that any controversy which may arise under this Agreement is likely to involve complicated and difficult issues, and therefore each such party hereby irrevocably and unconditionally waives any right such party may have to a trial by jury in respect of any litigation directly or indirectly arising out of or relating to this Agreement or the transactions contemplated by this Agreement. Each party certifies and acknowledges that (i) no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver, (ii) each

party understands and has considered the implications of this waiver, (iii) each party makes this waiver voluntarily and (iv) each party has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 9.12.

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

PATRIOT CAPITAL FUNDING, INC.

By: Name: Richard P. Buckanavage

Title: President and Chief Executive Officer

Signature Page

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

PROSPECT CAPITAL CORPORATION

By:

Name: M. Grier Eliasek

Title: President & Chief Operating Officer

Signature Page

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ANNEX B

August 3, 2009
Board of Directors
Patriot Capital Funding, Inc.
274 Riverside Avenue
Westport, CT 06880

Members of the Board:

You have asked us to advise you with respect to the fairness, from a financial point of view, to the holders of common stock, par value $0.01 per share (Company Common Stock), of Patriot Capital Funding, Inc. (the Company) of the Exchange Ratio (as defined below) set forth in the Agreement and Plan of Merger (the Agreement) to be entered into by and between the Company and Prospect Capital Corporation (Parent). The Agreement provides for, among other things, the merger (the Merger) of the Company with Parent pursuant to which each outstanding share of Company Common Stock, will be converted into the right to receive a number of shares (the Exchange Ratio) of common stock of Parent, par value $0.001 per share (the Parent Common Stock), equal to the product of (i) the quotient of: (A) 4.000 minus the amount of cash (if any) per share payable as the final Company dividends pursuant to Section 2.3(c) of the Agreement (the Final Company Dividends), divided by (B) 10.02 and (ii) a fraction, the numerator of which is 21,584,251, and the denominator of which is the number of shares of Company Common Stock then outstanding immediately prior to the effective time of the Merger (including, for the avoidance of doubt, vested restricted shares of Company Common Stock granted under the Company s employee restricted stock plan, as well as any shares of Company Common Stock issued pursuant to the declaration of the Final Company Dividends).

In arriving at our opinion, we have, among other things:

(i) reviewed a draft, dated August 3, 2009, of the Agreement;

(ii) reviewed certain financial statements of the Company and Parent and certain other business, financial and operating information relating to the Company and Parent provided to us by managements of the Company and Parent;

(iii) reviewed certain publicly available business and financial information relating to the industries in which the Company and Parent operate;

(iv) met with certain members of the managements of the Company and Parent to discuss the business and prospects of the Company and Parent;

(v) reviewed certain business, financial and other information relating to the Company and Parent, including financial forecasts for the Company through December 31, 2009 provided to or discussed with us by the management of the Company;

(vi) reviewed certain financial and stock trading data and information for the Company and Parent and compared that data and information with corresponding data and information for companies with publicly traded securities that we deemed relevant;

(vii) reviewed certain financial terms of the proposed Merger and compared those terms with the financial terms of certain other business combinations and other transactions which have recently been effected or announced; and

(viii) considered such other information, financial studies, analyses and investigations and financial, economic and market criteria that we deemed relevant.

In connection with our review, we have not independently verified any of the foregoing information and we have assumed and relied upon such information being complete and accurate in all material respects. With respect to the financial forecasts provided or discussed with us by the Company that we have used in our analyses, management of the Company has advised us, and we have assumed, that such forecasts have been reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of

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the management of the Company as to the future financial performance of the Company through December 31, 2009 and we express no view and assume no responsibility for the assumptions, estimates and judgments on which such forecasts were based. As you are aware, Parent has not provided us with its management s forecasts as to the future financial performance of Parent. We also have assumed, with your consent, that, in the course of obtaining any regulatory or third party consents, approvals or agreements in connection with the Merger, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on the Company, Parent, or the contemplated benefits of the Merger and that the Merger will be consummated in accordance with the terms of the Agreement without waiver, modification or amendment of any material term, condition or agreement thereof. We have also assumed, with your consent, that the Merger will be treated as a tax-free reorganization for federal income tax purposes and that the Agreement, when executed by the parties thereto, will conform to the draft reviewed by us in all respects material to our analyses. In addition, you have advised us and for purposes of our analyses and this opinion, we have assumed that (i) on April 3, 2009, a termination event occurred under the Company s second amended and restated securitization revolving credit facility with an entity affiliated with BMO Capital Markets Corp. and Branch Banking and Trust Company (the Facility), (ii) as a result of the occurrence of the termination event under the Facility, the Company can no longer make additional advances under the Facility and all principal, interest and fees collected from the debt investments secured by the Facility must be used to pay down amounts outstanding under the Facility within 24 months following the date of the termination event, (iii) the lenders under the Facility, upon notice to the Company may accelerate amounts outstanding under the Facility and exercise other rights and remedies provided by the Facility, including the right to sell the collateral under the Facility, (iv) the Company has been unable to obtain alternative sources of financing to replace the Facility or otherwise provide access to ongoing liquidity and funding or eliminate the need for such liquidity and funding, and (v) given the nature of the Company s various businesses, assets and financing arrangements and the expected actions of its counterparties, creditors and employees, if the Merger is not consummated the Company is unlikely to be able to continue to function as a going concern which could reasonably result in a voluntary or involuntary bankruptcy or liquidation of the Company in which the holders of Company Common Stock would receive little or no value. We have not evaluated the solvency or fair value of any party to the Agreement under any state or federal laws relating to bankruptcy, insolvency or similar matters and do not express any opinion as to the value of any asset of the Company, whether at current market prices or in the future. We note, however, that, under the ownership of a company with adequate liquidity and capital, such as Parent, the value of the Company and its subsidiaries could substantially improve, resulting in significant returns to Parent if the Merger is consummated. You have further advised us that, as a result of concerns regarding the viability of the Company as a going concern, the Company has not prepared, and consequently could not provide us with, forecasts as to the future financial performance of the Company beyond December 31, 2009.

Our opinion addresses only the fairness, from a financial point of view, to the holders of Company Common Stock of the Exchange Ratio set forth in the Agreement and does not address any other aspect or implication of the Merger or any agreement, arrangement or understanding entered into in connection with the Merger or otherwise or the fairness of the amount or nature of, or any other aspect relating to, any compensation to any officers, directors or employees of any party to the Merger, or class of such persons, relative to the Exchange Ratio or otherwise. In addition, we have not investigated or otherwise evaluated the potential affects of the Merger on the federal, state or other taxes or tax rates payable by the Company, Parent or the holders of Company Common Stock or Parent Common Stock and, with your consent, have assumed, that such taxes and tax rates will not be affected by or after giving effect to the Merger. The issuance of this opinion was approved by an authorized internal committee of FBR Capital Markets & Co. (FBR).

Our opinion is necessarily based upon information made available to us as of the date hereof and financial, economic, market and other conditions as they exist and can be evaluated on the date hereof. We are not expressing any opinion as to what the value of shares of Parent Common Stock actually will be when issued to the holders of Company Common Stock pursuant to the Merger or the prices at which shares of Parent Common Stock will trade at any time. Our opinion does not address the relative merits of the Merger as compared to alternative transactions or strategies that might be available to the Company or any other party to the Merger, nor does it address the underlying business

decision of the Board of Directors of the Company or any other party to the Merger to proceed with the Merger.

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Furthermore, in connection with this opinion, we have not been requested to make, and have not made, any physical inspection or independent appraisal or evaluation of any of the assets, properties or liabilities (contingent or otherwise) of the Company, Parent, or any other party, nor were we provided with any such appraisal or evaluation. We did not estimate, and express no opinion regarding, the liquidation value of any entity.

We have acted as financial advisor to the Company in connection with the Merger and will receive a fee for our services, a portion of which is contingent upon the consummation of the Merger. We will also receive a fee for rendering this opinion, which is not contingent upon the successful completion of the Merger. In addition, the Company has agreed to indemnify us and certain related parties for certain liabilities arising out of or related to our engagement and to reimburse us for certain expenses incurred in connection with our engagement.

We and our affiliates may in the future provide financial advice and services to the Company, Parent and certain of their respective affiliates for which we and our affiliates would also expect to receive compensation. We are 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 the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of the Company and Parent and any other company that may be involved in the Merger, as well as provide investment banking and other financial services to such companies.

It is understood that this letter is for the information of the Board of Directors of the Company in connection with its consideration of the Merger and should not be construed as creating any fiduciary duty on the part of FBR to the Company, the Board of Directors of the Company, any security holder of the Company or any other party. This letter does not constitute advice or a recommendation to any investor or security holder of the Company or any other person as to how such investor, security holder or other person should vote or act on any matter relating to the proposed Merger or otherwise.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Exchange Ratio set forth in the Agreement is fair, from a financial point of view, to the holders of Company Common Stock.

Very truly yours,

FBR Capital Markets & Co.

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PART C

OTHER INFORMATION

Item 15. ***Indemnification.***

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment as being material to the cause of action. Prospect s charter contains such a provision which eliminates directors and officers liability to the maximum extent permitted by Maryland law, subject to the requirements of the 1940 Act.

Prospect s charter authorizes it, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to obligate it to indemnify any present or former director or officer or any individual who, while a director or officer and at Prospect s request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. Prospect s bylaws obligate it, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who, while a director or officer and at Prospect s request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made, or threatened to be made, a party to the proceeding by reason of his or her service in any such capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her service in any such capacity and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit Prospect to indemnify and advance expenses to any person who served a predecessor of it in any of the capacities described above and any of its employees or agents or any employees or agents of its predecessor. In accordance with the 1940 Act, Prospect will not indemnify any person for any liability to which such person would be subject by reason of such person s willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made, or threatened to be made, a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received, unless in either case a court orders indemnification, and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation s receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was

not met.

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The Investment Advisory Agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, Prospect Capital Management LLC (the Adviser) and its officers, managers, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from Prospect for any damages, liabilities, costs and expenses (including reasonable attorneys fees and amounts reasonably paid in settlement) arising from the rendering of the Adviser s services under the Investment Advisory Agreement or otherwise as an Investment Adviser of Prospect.

The Administration Agreement provides that, absent willful misfeasance, bad faith or negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, Prospect Administration LLC and its officers, manager, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from Prospect for any damages, liabilities, costs and expenses (including reasonable attorneys fees and amounts reasonably paid in settlement) arising from the rendering of Prospect Administration LLC s services under the Administration Agreement or otherwise as administrator for Prospect.

The Administrator is authorized to enter into one or more sub-administration agreements with other service providers (each a Sub-Administrator) pursuant to which the Administrator may obtain the services of the service providers in fulfilling its responsibilities hereunder. Any such sub-administration agreements shall be in accordance with the requirements of the 1940 Act and other applicable U.S. Federal and state law and shall contain a provision requiring the Sub-Administrator to comply with the same restrictions applicable to the Administrator.

Item 16. ***Exhibits.***

(1)(a) Articles of Incorporation. (Incorporated by reference to the Registrant s Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on April 16, 2004.)

(1)(b) Articles of Amendment and Restatement. (Incorporated by reference to the Registrant s Pre-effective Amendment No. 2 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on July 6, 2004.)

(1)(c) Articles of Amendment. (Incorporated by reference to the Registrant s Pre-effective Amendment No. 3 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-143819), filed on September 5, 2007.)

(2)(a) Bylaws. (Incorporated by reference to the Registrant s Pre-effective Amendment No. 2 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on July 6, 2004.)

(2)(b) Amended and Restated Bylaws. (Incorporated by reference to the Registrant s Pre-effective Amendment No. 2 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-114552), filed on July 6, 2004.)

(2)(c) Amended and Restated Bylaws. (Incorporated by reference to Exhibit 3.1 to Registrant s Form 8-K filed on September 21, 2009.)

(3) Not applicable.

(4) Agreement and Plan of Merger by and between Patriot Capital Funding, Inc. and Prospect Capital Corporation, dated as of August 3, 2009. Filed herewith as Appendix A to the Registration Statement on Form N-14.

(5) Form of Share Certificate. (Incorporated by reference to Pre-Effective Amendment No. 2 to the Registrant s Registration Statement on Form N-2 (File No. 333-114522), filed on July 6, 2004.)

(6) Investment Advisory Agreement between Registrant and Prospect Capital Management LLC. (Incorporated by reference to Pre-Effective Amendment No. 2 to the Registrant s Registration Statement on Form N-2 (File No. 333-114522), filed on July 6, 2004.)

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(7)(a) Underwriting Agreement. (Incorporated by reference to the Registrant s Post-effective Amendment No. 15 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-143819), filed on July 2, 2009.)

(7)(b) Underwriting Agreement. (Incorporated by reference to the Registrant s Post-effective Amendment No. 13 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-143819), filed on May 20, 2009.)

7(c) Underwriting Agreement. (Incorporated by reference to the Registrant s Post-effective Amendment No. 12 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2 (File No. 333-143819), filed on April 23, 2009.)

(8) Not applicable.

(9) Custodian Agreement. (Incorporated by reference to Pre-Effective Amendment No. 3 to the Registrant s Registration Statement on Form N-2 (File No. 333-114522), filed on July 23, 2004.)

(10) Not applicable

***(11) Opinion and Consent of Venable LLP, as special Maryland counsel for Registrant.

***(12) Opinion of Sutherland Asbill & Brennan LLP as to tax matters.

***(14)(a) Consent of BDO Seidman LLP, independent registered public accounting firm.

***(14)(b) Consent of Grant Thornton LLP, independent registered public accounting firm.

(14)(c) Report of Grant Thornton LLP regarding Senior Securities of Patriot table included herein.

(15) Not applicable.

(16) Not applicable.

(17)(a) Form of Proxy Card of Patriot Capital Funding, Inc.

(17)(b) Consent of FBR Capital Markets & Co.

* Filed herewith.

** Incorporated by reference to the initial filing of the Registration Statement on Form N-14 (333-161764) filed on September 4, 2009.

*** Incorporated by reference to Amendment No. 1 to this Registration Statement on Form N-14 (333-161764) filed on October 20, 2009.

Item 17. ***Undertakings.***

(1) The undersigned registrant agrees that prior to any public reoffering of the securities registered through the use of a prospectus which is a part of this registration statement by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c) of the Securities Act, the reoffering prospectus will contain the information called for by the applicable registration form for reofferings by person who may be deemed underwriters, in addition to the information called for by the other items of the applicable form.

(2) The undersigned registrant agrees that every prospectus that is filed under paragraph (1) above will be filed as a part of an amendment to the registration statement and will not be used until the amendment is effective, and that, in determining any liability under the 1933 Act, each post-effective amendment shall be deemed to be a new registration statement for the securities offered therein, and the offering of the securities at that time shall be deemed to be the initial *bona fide* offering of them.

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SIGNATURES

As required by the Securities Act of 1933, this Amendment No. 2 to this registration statement has been signed on behalf of the registrant, in the City of New York, and State of New York, on the 22nd day of October, 2009.

PROSPECT CAPITAL CORPORATION

By: /s/ John F. Barry III

Name: John F. Barry III

Title: Chief Executive Officer and Chairman of the Board of Directors

As required by the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
/s/ John F. Barry III John F. Barry III	Chief Executive Officer and Chairman of the Board of Directors	October 22, 2009
/s/ M. Grier Eliasek M. Grier Eliasek	Chief Operating Officer and Director	October 22, 2009
/s/ Brian H. Oswald Brian H. Oswald	Chief Financial Officer, Treasurer and Secretary (principal financial and accounting officer)	October 22, 2009
/s/ Graham D.S. Anderson Graham D.S. Anderson	Director	October 22, 2009
/s/ Andrew C. Cooper Andrew C. Cooper	Director	October 22, 2009
/s/ Eugene S. Stark Eugene S. Stark	Director	October 22, 2009