
Item 1.01.



901 Lakeside Ave.,



(d) Dis d)





ARTICLE V

REPRESENTATIONS AND WARRANTIES

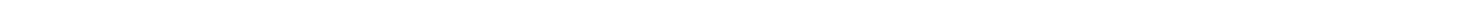
5.1 Representations and Warranties of frē

regarding questionable accounting or auditing matters, have been received by the Company. As of the date of this Agreement, there have not been, since the Applicable Date, any rær by ou pabs by

(l) Tax Matters. Neither the Company nor any of its Affiliates has taken or agreed to take any action, nor does the Company have any Knowledge of any fact or circumstance, that would prevent the Merger from qualifying as a “reorganization” within the meaning of Section 368(a) of the Code.

(m) Taxes. Except as has not had, and would not, individually or in the aggregate, reasonably be expected to result, in a Company Material Adverse Effect:

(i) The Company and each of its Subsidiaries (A) have duly and timely filed (taking into account any extension of time within which to file) all Tax Returns required to be filed by any of them and all such filed Tax Returns are correct and complete, (B) have paid or withheld, as applicable, all Taxes that (1) are shown as due on such filed Tax Returns or (2) that the Company or any of its Subsidiaries are obligated to withhold from amounts owing to any employee, creditor, shareholder or third party, except with respect to matters concerning (B) from amounts owing to any employee, creditor, shareholder or third party, except with respect to



(iii) ~~containing any standstill or similar provision remaining in effect pursuant to which the Company or any Subsidiary of the Company has agreed not to acquire~~ s aginia r qo



Person has made or is making, and the Company expressly disclaims reliance upon, any representations, warranties or statements relating to Parent at ra



(b) Capital Structure.

(i) Capitalization of Parent.

of Parent Shares vota

amount of compensatOen "



entered into in connection with the Merger (includinrM



accordance wi



any kind to acquir



directors, officers, employees, or independent contractors (who are natural persons) of the Company or its Subsidiaries, other than (1) annual increases in base salaries or regular hourly wages that are (I) granted in the ordinary course of business consistent with past practice and (II) in the aggregate not in excess of 3% of the aggregate base salaries or regular hourly wages for the Company's employees in effect as of the date hereof, provided that the Company delivers a written budget showing the annual increases for the affected employees to Parent for review prior to the effective date of any such increases in base salaries or regular hourly wages or (2) increases upon promotions in the ordinary course of business consistent with past practice, provided that the Company deliver to Parent a monthly report on the

Parent Recommendation Change (in the case of Parent) in response to successful completion



(d) Each of the Company and Parent sha

practicable and in





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

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119
Attn: Raymond O. Gietz; Amanda FenMmaAv

ARTICLE X
CERTAIN DEFINITIONS

10.1 Definit



“Financing Parties” means the persons (other than Parent or any of its Subsidiaries) that have committed to provide any portion of any Financing or have otherwise entered into any commitment letter, engagement letter

“IT Assets” means computers, computer software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines,

IN WITHIII

