

merged with and into the Company (the "**First Company Merger**"), whereupon the separate existence of Merger Subsidiary One shall cease, and the Company shall be the surviving corporation (the "**Company Surviving Corporation**").

(iii) At the Second Company Merger Effective Time, the Company Surviving Corporation shall be merged with and into Merger Subsidiary Two (the "**Second Company Merger**" and, together with the First Company Merger, the "**Company Mergers**"), whereupon the separate existence of the Company Surviving Corporation shall cease, and Merger Subsidiary Two shall be the surviving entity (the "**Merger Subsidiary Two Surviving Entity**") and New Charter shall assume the obligations to pay the Company Cash Merger Consideration and issue the Company Stock Merger Consideration hereunder.

(iv) At the Parent Merger Effective Time, Parent shall be merged (the "**Parent Merger**" and, together with the Company Mergers, the "**Mergers**") with and into Merger Subsidiary Three, whereupon the separate existence of Parent shall cease, and Merger Subsidiary Three shall be the surviving entity (the "**Parent Surviving Entity**") and a wholly owned direct subsidiary of Merger Subsidiary Two Surviving Entity.

(b) Subject to the provisions of Article 9, the closing of the Mergers (the "**Closing**") shall take place in New York City at the offices of Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, New York, 10019 as soon as possible, but in any event no later than five Business Days after the date the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent permissible, waived by the party or parties entitled to the benefits of such conditions, or at such other place, at such other time or on such other date as Parent and the Company may mutually agree.

(c) At the Closing, each of the following filings shall be made in the following order: (i) the Company and Merger Subsidiary One shall file a certificate of merger (the "**Company Certificate of Merger**") with the Delaware Secretary of State and make all other filings or recordings required by Delaware Law in connection with the First Company Merger, (ii) the Company Surviving Corporation and Merger Subsidiary Two shall file a certificate of merger (the "**Merger Subsidiary Two Certificate of Merger**") with the Delaware Secretary of State and make all other filings or recordings required by Delaware Law in connection with the Second Company Merger, and (iii) Parent and Merger Subsidiary Three shall file a certificate of merger (the "**Parent Certificate of Merger**") with the Delaware Secretary of State and make all other filings or recordings required by Delaware Law in connection with the Parent Merger.

(d) (i) The First Company Merger shall become effective at such time as the Company Certificate of Merger is duly filed with the Delaware Secretary of State (or at such later time as may be agreed to by the parties and specified in the Company Certificate of Merger) (the "**First Company Merger Effective Time**"); (ii) the Second Company Merger shall become effective at such time as the Merger Subsidiary Two Certificate of Merger is duly filed with the Delaware Secretary of State (or at such later time as may be agreed to by the parties and specified in the Merger Subsidiary Two Certificate of Merger) (the "**Second Company Merger Ef-**

**fective Time**"); *provided* that the Second Company Merger shall not become effective until after the First Company Merger Effective Time; and (iii) the Parent Merger shall become effective at such time as the Parent Certificate of Merger is duly filed with the Delaware Secretary of State (or at such time as may be agreed to by the parties and specified in the Parent Certificate of Merger) (the "**Parent Merger Effective Time**"); *provided* that the Parent Merger shall not become effective until after the Second Company Merger Effective Time (such time as each of the First Company Merger, the Second Company Merger and the Parent Merger become effective is hereinafter referred to as the "**Effective Time**").

(e) (i) From and after the First Company Merger Effective Time, the Company Surviving Corporation shall possess all the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and disabilities of the Company and Merger Subsidiary One, (ii) from and after the Second Company Merger Effective Time, the Merger Subsidiary Two Surviving Entity shall possess all the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and disabilities of the Company Surviving Corporation and Merger Subsidiary Two, and (iii) from and after the Parent Merger Effective Time, the Parent Surviving Entity shall possess all the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and disabilities of Parent and Merger Subsidiary Two, in each case all as provided under Delaware Law.

#### Section 2.02 *Conversion of Shares.*

(a) At the First Company Merger Effective Time by virtue of the First Company Merger and without any action on the part of the Company, Merger Subsidiary One or any holder of any capital stock of the Company or Merger Subsidiary One:

(i) Except as otherwise provided in Section 2.02(a)(iii), Section 2.02(a)(iv) and except for Dissenting Shares, each share of Company Stock outstanding immediately prior to the First Company Merger Effective Time (which, for the avoidance of doubt, shall exclude the Exchange Shares) shall be converted, at the election of the holder thereof (such election to receive consideration referred to in either clause (A) or (B), the "**Election**"), in accordance with the procedures set forth in Section 2.03, into the right to receive the following consideration, without interest (the consideration referred to in either clause (A) or (B), collectively, as modified by Section 2.02(a)(v) and Section 2.02(a)(vi), the "**Company Merger Consideration**"): (A) \$100.00 in cash (the "**Company Option A Cash Consideration**"), and a number of shares of the Company Surviving Corporation Stock equal to the Option A Effective Exchange Ratio (the "**Company Option A Stock Consideration**," and together with the Company Option A Cash Consideration and the cash in lieu of fractional shares of the Company Stock as specified below, the "**Company Option A Merger Consideration**") or (B) \$115.00 in cash (the "**Company Option B Cash Consideration**"), and a number of shares of the Company Surviving Corporation Stock equal to the Option B Effective Exchange Ratio (the "**Company Option B Stock Consideration**," and together with the Company Option B Cash Consideration and the cash in lieu of fractional shares of the Company Stock as specified below, the "**Company Option B Merger Consideration**"). As of the First Company Merger Effective Time, all such shares of Company Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and

shall thereafter represent only the right to receive the Company Merger Consideration and the right to receive any dividends or other distributions pursuant to Section 2.03(h), in each case to be issued or paid in accordance with Section 2.03.

(ii) Each share of common stock of Merger Subsidiary One outstanding immediately prior to the First Company Merger Effective Time shall be converted into and become one share of Company Surviving Corporation Stock.

(iii) Each share of Company Stock held by the Company as treasury stock or owned by Merger Subsidiary One immediately prior to the First Company Merger Effective Time (including, without limitation, the Exchange Shares) shall be canceled, and no payment shall be made with respect thereto.

(iv) Each share of Company Stock held by any direct or indirect wholly owned Subsidiary of the Company or any direct or indirect wholly owned Subsidiary of Parent (in each case, other than Merger Subsidiary One) shall be converted into and become one share of Company Surviving Corporation Stock.

(b) At the Second Company Merger Effective Time by virtue of the Second Company Merger and without any action on the part of the Company Surviving Corporation, Merger Subsidiary Two or any holder of any capital stock or equity interests (as applicable) of the Company Surviving Corporation or Merger Subsidiary Two:

(i) Each share of Company Surviving Corporation Stock issued and outstanding immediately prior to the Second Company Merger Effective Time (which, for the avoidance of doubt, shall only include the shares of Company Surviving Corporation Stock issued or to be issued in connection with the First Company Merger and shall not include any shares of Company Stock that were not converted into the right to receive the Company Merger Consideration pursuant to Section 2.02(a)(i)) shall automatically be converted into the right to receive one share of New Charter Common Stock (the “**New Charter Merger Consideration**”). As of the Second Company Merger Effective Time, all such shares of Company Surviving Corporation Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and shall thereafter represent only the right to receive the New Charter Merger Consideration and the right to receive any dividends or other distributions pursuant to Section 2.03(h), in each case to be issued or paid in accordance with Section 2.03, without interest.

(ii) Each membership unit of Merger Subsidiary Two outstanding immediately prior to the Second Company Merger Effective Time shall continue to remain outstanding as a membership unit of Merger Subsidiary Two Surviving Entity and shall constitute the only outstanding equity interests of the Merger Subsidiary Two Surviving Entity.

(c) At the Parent Merger Effective Time by virtue of the Parent Merger and without any action on the part of Parent, Merger Subsidiary Three or any holder of any capital stock or equity interests (as applicable) of Parent or Merger Subsidiary Three:

(i) Each share of Parent Class A Common Stock issued and outstanding immediately prior to the Parent Merger Effective Time (other than any share of Parent Class A Common Stock to be canceled pursuant to Section 2.02(c)(ii)) shall automatically be converted into the right to receive a number of shares of New Charter Common Stock equal to the Parent Merger Exchange Ratio (the “**Parent Merger Consideration**”), and the cash in lieu of fractional shares of New Charter Common Stock as specified below. As of the Parent Merger Effective Time, all such shares of Parent Class A Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and shall thereafter represent only the right to receive the Parent Merger Consideration and the right to receive any dividends or other distributions pursuant to Section 2.03(h), in each case to be issued or paid in accordance with Section 2.03, without interest.

(ii) Each share of Parent Class A Common Stock held by Parent as treasury stock or owned directly by Parent immediately prior to the Parent Merger Effective Time shall be canceled and no payment shall be made with respect thereto.

(iii) Each membership unit of Merger Subsidiary Three outstanding immediately prior to the Parent Merger Effective Time shall continue to remain outstanding as a membership unit of the Parent Surviving Entity and shall constitute the only outstanding equity interests of the Parent Surviving Entity.

Section 2.03 *Surrender and Payment.*

(a) The following procedures shall apply to Elections made pursuant to Section 2.02(a)(i):

(i) Parent shall prepare a form reasonably acceptable to the Company (the “**Election Form**”), which shall be mailed by the Company to record holders of Company Stock and holders of Vested Company Stock Options and Director RSUs (as such terms are defined in Section 2.04) so as to permit those holders to exercise their right to make an Election prior to the Election Deadline and which shall specify, among other things, the Election Deadline and the consequences of failing to meet the Election Deadline.

(ii) Prior to the Mailing Date, Parent shall appoint an agent reasonably acceptable to the Company (the “**Exchange Agent**”) for (i) receiving Elections and exchanging for the applicable Company Cash Consideration and New Charter Merger Consideration (in respect of the applicable Company Stock Merger Consideration that shall be deemed to be automatically surrendered for exchange upon the Second Company Merger Effective Time) (as well as cash in lieu of fractional shares of New Charter Company Stock as specified in Section 2.07) (A) certificates representing shares of Company Stock (the “**Company Certificates**”) and (B) uncertificated shares of Company Stock (the “**Company Uncertificated Shares**”), and (ii) exchanging for the Parent Merger Consideration and cash in lieu of fractional shares of New Charter Company Stock as specified in Section 2.07 (A) certificates representing shares of Parent Class A Common Stock (the “**Parent Certificates**”) and, together with the Company Certificates, the “**Cer-**

tificates”) and (B) uncertificated shares of Parent Class A Common Stock (the “**Parent Uncertificated Shares**” and, together with the Company Uncertificated Shares, the “**Uncertificated Shares**”).

(iii) The Company shall mail or cause to be mailed or delivered, as applicable, not less than 20 Business Days prior to the anticipated Election Deadline (the “**Mailing Date**”) an Election Form to record holders of Company Stock as of the close of business on the tenth (10th) Business Day prior to the Mailing Date (the “**Election Form Record Date**”). The Company shall make available one or more Election Forms as may reasonably be requested from time to time by all persons who become holders or beneficial owners of Company Stock during the period following the Election Form Record Date and prior to the Election Deadline.

(iv) Any Election shall have been made properly only if the Exchange Agent shall have received, by the Election Deadline, an Election Form properly completed and signed and accompanied by Company Certificates to which such Election Form relates, duly endorsed in blank or otherwise in form acceptable for transfer on the books of the Company and, in the case of Company Uncertificated Shares, any additional documents specified in the procedures set forth in the Election Form. As used herein, unless otherwise agreed in advance by the Company and Parent, “**Election Deadline**” means 5:00 p.m. local time (in the city in which the principal office of the Exchange Agent is located) on the date that Parent and the Company shall agree is five (5) Business Days prior to the expected Closing Date. The Company and Parent shall issue a press release reasonably satisfactory to each of them announcing the anticipated date of the Election Deadline not more than 20 Business Days before, and at least five Business Days prior to, the Election Deadline. If the Closing is delayed to a subsequent date, the Election Deadline shall be similarly delayed to a subsequent date (which shall be the fifth Business Day prior to the Closing Date) and the Company and Parent shall cooperate to promptly publicly announce such rescheduled Election Deadline and Closing.

(v) Any holder of Company Stock may, at any time prior to the Election Deadline, change or revoke his or her Election by written notice received by the Exchange Agent prior to the Election Deadline accompanied by a properly completed and signed revised Election Form or by withdrawal prior to the Election Deadline of his or her Company Certificates, or any documents in respect of Company Uncertificated Shares, previously deposited with the Exchange Agent. After an Election is validly made with respect to any shares of Company Stock, any subsequent transfer of such shares of Company Stock shall automatically revoke such Election. If no Election is made by a holder, or an Election is revoked and another one is not validly and timely made by a holder, such holder shall only have the right to receive the Company Option A Merger Consideration. Notwithstanding anything to the contrary in this Agreement, all Elections shall be automatically deemed revoked upon receipt by the Exchange Agent of written notification from Parent or the Company that this Agreement has been terminated in accordance with Article 10. Subject to the terms of this Agreement, the Exchange Agent shall have reasonable discretion to determine if any Election is not properly or timely made with respect to any shares of Company Stock (neither Parent nor the Company nor the Exchange Agent being under any duty to notify any stockholder of any such defect);

in the event the Exchange Agent makes such a determination, such Election shall be deemed to be not in effect, and the shares of Company Stock covered by such Election shall, for purposes hereof, be deemed to be only entitled to receive the Company Option A Merger Consideration pursuant to the terms and conditions hereof, unless a proper Election is thereafter timely made with respect to such shares.

(b) At or immediately after the Effective Time, Parent or New Charter shall make, or cause to be made, available to the Exchange Agent the Merger Consideration to be paid in respect of the Certificates and the Uncertificated Shares (including cash in immediately available funds in an amount sufficient to pay the aggregate Company Cash Consideration and cash in lieu of fractional shares as specified in Section 2.07) (the "**Exchange Fund**"). Each of Parent and New Charter agrees to make available to the Exchange Agent from time to time, as needed, any dividends or distributions to which any Person is entitled pursuant to Section 2.03(h). Promptly after the Effective Time, and in any event no later than the tenth Business Day following the Effective Time, New Charter shall send, or shall cause the Exchange Agent to send, to each holder of record of shares of Company Stock at the First Company Merger Effective Time a letter of transmittal and instructions (with respect to both the Company Cash Consideration and New Charter Merger Consideration) reasonably acceptable to the Company, and to each holder of record of shares of Parent Class A Common Stock at the Parent Merger Effective Time a letter of transmittal and instructions (with respect to the Parent Merger Consideration) (which shall, in each case, specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates or transfer of the Uncertificated Shares to the Exchange Agent and which shall otherwise be in customary form and shall include customary provisions with respect to delivery of an "agent's message" regarding the book-entry transfer of Uncertificated Shares) for use in such exchange. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by Parent or New Charter, on a daily basis; provided that such investments shall be in obligations of or guaranteed by the United States of America or any agency or instrumentality thereof and backed by the full faith and credit of the United States of America, in commercial paper obligations rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, or in certificates of deposit, bank repurchase agreements or banker's acceptances of commercial banks with capital exceeding \$25 billion (based on the most recent financial statements of such bank which are then publicly available), or a combination of the foregoing. Any interest and other income resulting from such investments shall be paid to New Charter upon termination of the Exchange Fund pursuant to this Section 2.03 and any losses resulting from such investments will be made up by Parent or New Charter to the extent necessary to pay the Company Cash Consideration.

(c) Each holder of shares of Company Stock that have been converted into the right to receive the Company Merger Consideration and, subsequently, the New Charter Merger Consideration shall be entitled to receive, upon (i) surrender to the Exchange Agent of a Company Certificate, together with a properly completed letter of transmittal, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of a book-entry transfer of Company Uncertificated Shares, the applicable Company Cash Consideration and the New Charter Merger Consideration in respect of the Company Stock represented by a Company Certificate or Company Uncertificated Share (in each case as applicable), as specified in such holder's Election Form (or otherwise based on the Company Option A Merger Consideration). The shares of New Charter

Common Stock constituting part of such New Charter Merger Consideration shall be in uncertificated book-entry form, unless a physical certificate is required under Applicable Law. Until so surrendered or transferred, as the case may be, each Company Certificate or Company Uncertificated Share shall represent after the First Company Merger Effective Time and the Second Company Merger Effective for all purposes only the right to receive such Company Cash Consideration, New Charter Merger Consideration and the right to receive any dividends or other distributions pursuant to Section 2.03(h).

(d) Each holder of shares of Parent Class A Common Stock that have been converted into the right to receive the Parent Merger Consideration shall be entitled to receive, upon (i) surrender to the Exchange Agent of a Parent Certificate, together with a properly completed letter of transmittal, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of a book-entry transfer of Parent Uncertificated Shares, the Parent Merger Consideration in respect of the Parent Class A Common Stock represented by a Parent Certificate or Parent Uncertificated Share (in each case as applicable). The shares of New Charter Common Stock constituting part of such Parent Merger Consideration, at Parent's option, shall be in uncertificated book-entry form, unless a physical certificate is required under Applicable Law. Until so surrendered or transferred, as the case may be, each such Parent Certificate or Parent Uncertificated Share shall represent after the Parent Merger Effective Time for all purposes only the right to receive such Parent Merger Consideration and the right to receive any dividends or other distributions pursuant to Section 2.03(h).

(e) If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Uncertificated Share is registered, it shall be a condition to such payment that (i) either such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Uncertificated Share shall be properly transferred and (ii) the Person requesting such payment shall pay to the Exchange Agent any transfer or other taxes required as a result of such payment to a Person other than the registered holder of such Certificate or Uncertificated Share or establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(f) (i) After the First Company Merger Effective Time, there shall be no further registrations of transfers of shares of Company Stock (other than solely as a result of the First Company Merger or the Second Company Merger), (ii) after the Second Company Merger Effective Time, there shall be no further registration of transfers of shares of Company Surviving Corporation Stock (other than solely as a result of the Second Company Merger) and (iii) after the Parent Merger Effective Time, there shall be no further registration of transfers of shares of Parent Class A Common Stock (other than solely as a result of the Parent Merger). If, after the First Company Merger Effective Time, the Second Company Merger Effective Time or the Parent Merger Effective Time, as applicable, Certificates, Uncertificated Shares or uncertificated shares of Company Surviving Corporation Stock are presented to the Company Surviving Corporation, New Charter, the Parent Surviving Entity or the Exchange Agent, they shall be canceled and exchanged for the Company Cash Consideration and the New Charter Merger Consideration or Parent Merger Consideration, as applicable, provided for, and in accordance with the procedures set forth, in this Article 2.

(g) Any portion of the Merger Consideration made available to the Exchange Agent pursuant to Section 2.03(a) that remains unclaimed by the holders of shares of Company Stock or Parent Class A Common Stock twelve (12) months after the Effective Time shall be delivered to New Charter, upon demand, and any such holder who has not exchanged shares of Company Stock or Parent Class A Common Stock for the applicable Merger Consideration in accordance with this Section 2.03 prior to that time shall thereafter look only to New Charter for and New Charter shall remain liable for, payment of the applicable Merger Consideration, and any dividends and distributions with respect thereto pursuant to Section 2.03(h), in respect of such shares without any interest thereon. Notwithstanding the foregoing, none of the parties to this Agreement shall be liable to any holder of shares of Company Stock or Parent Class A Common Stock for any amounts properly paid to a public official pursuant to applicable abandoned property, escheat or similar laws. Any amounts remaining unclaimed by holders of shares of Company Stock or Parent Class A Common Stock two (2) years after the Effective Time (or such earlier date, immediately prior to such time when the amounts would otherwise escheat to or become property of any Governmental Authority) shall become, to the extent permitted by Applicable Law, the property of New Charter free and clear of any claims or interest of any Person previously entitled thereto.

(h) No dividends or other distributions with respect to securities of New Charter constituting part of the Merger Consideration, and no cash payment in lieu of fractional shares as provided in Section 2.07, shall be paid to the holder of any Certificates not surrendered or of any Uncertificated Shares not transferred until such Certificates or Uncertificated Shares are surrendered or transferred, as the case may be, as provided in this Section 2.03. Following such surrender or transfer, there shall be paid, without interest, to the Person in whose name the securities of New Charter have been registered, (i) at the time of such surrender or transfer, the amount of any cash payable in lieu of fractional shares to which such Person is entitled pursuant to Section 2.07 and the amount of all dividends or other distributions with a record date after the Effective Time previously paid or payable on the date of such surrender with respect to such securities, and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time and prior to surrender or transfer and with a payment date subsequent to surrender or transfer payable with respect to such securities.

(i) The payment of any transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred by a holder of Company Stock or Parent Class A Common Stock in connection with the First Company Merger, the Second Company Merger or the Parent Merger, as applicable, for which none of Parent, New Charter, the Company, or a Subsidiary of the Company is liable, and the filing of any related Tax Returns and other documentation with respect to such Taxes and fees, shall be the sole responsibility of such holder.

#### Section 2.04 *Company Equity-Based Awards.*

(a) Except as provided in Section 2.04(d), the terms of each outstanding compensatory option to purchase shares of Company Stock (a "**Company Stock Option**"), whether or not exercisable or vested, shall be adjusted as necessary to provide that, at the Second Company Merger Effective Time, each Company Stock Option outstanding immediately prior to the First Company Merger Effective Time shall be converted into an option (each, a "**Company**

**Adjusted Option**) to acquire, on the same terms and conditions as were applicable under such Company Stock Option immediately prior to the First Company Merger Effective Time, the number of shares of New Charter Common Stock equal to the product of (i) the number of shares of Company Stock subject to such Company Stock Option immediately prior to the First Company Merger Effective Time multiplied by (ii) the Stock Award Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares. The exercise price per share of New Charter Common Stock subject to any such Company Adjusted Option shall be an amount equal to the quotient of (A) the exercise price per share of Company Stock subject to such Company Stock Option immediately prior to the First Company Merger Effective Time divided by (B) the Stock Award Exchange Ratio, with any fractional cents rounded up to the next higher number of whole cents. Notwithstanding the foregoing, if the conversion of a Company Stock Option in accordance with the preceding provisions of this Section 2.04(a) would cause the related Company Adjusted Option to be treated as the grant of new stock right for purposes of Section 409A of the Code, such Company Stock Option shall not be converted in accordance with the preceding provisions but shall instead be converted in a manner reasonably acceptable to Parent and the Company that would not cause the related Company Adjusted Option to be treated as the grant of new stock right for purposes of Section 409A.

(b) Except as provided in Section 2.04(c) and Section 2.04(d), the terms of each outstanding restricted stock unit or deferred stock unit with respect to shares of Company Stock (a "**Company RSU**"), whether or not vested, shall be adjusted as necessary to provide that, at the Second Company Merger Effective Time, each Company RSU outstanding immediately prior to the First Company Merger Effective Time shall be converted into a restricted stock unit (each, a "**Company Adjusted RSU**") with respect to, and on the same terms and conditions as were applicable under such Company RSU immediately prior to the First Company Merger Effective Time, the number of shares of New Charter Common Stock equal to the product of (i) the number of shares of Company Stock subject to such Company RSU immediately prior to the First Company Merger Effective Time multiplied by (ii) the Stock Award Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares.

(c) At or promptly after the Second Company Merger Effective Time, each outstanding Company RSU (each, a "**Director RSU**") held by a non-employee director or former non-employee director of the Company (each, a "**Director**"), whether or not vested, shall be canceled, and New Charter shall pay each such Director at or promptly after the Second Company Merger Effective Time for each such Director RSU an amount in cash computed by first determining the Company Adjusted RSU that such Director would have received if the Director RSU held by such Director was converted into a Company Adjusted RSU pursuant to the methodology described in Section 2.04(b) (each, a "**Notional Adjusted RSU**") and then multiplying (i) the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the First Company Merger Effective Time by (ii) the number of shares of New Charter Common Stock subject to the Notional Adjusted RSU.

(d) (i) At or promptly after the Second Company Merger Effective Time, each outstanding Company Stock Option (each, a "**Former Employee Option**") held by a former employee or individual contractor of the Company (each, a "**Former Employee**"), whether or not exercisable or vested, shall be cancelled, and New Charter shall pay each such Former Em-

ployee at or promptly after the Second Company Merger Effective Time for each such Former Employee Option an amount in cash computed by first determining the Company Adjusted Option that such Former Employee would have received if the Former Employee Option held by such Former Employee was converted into a Company Adjusted Option pursuant to the methodology described in Section 2.04(a) (each, a “**Notional Adjusted Option**”) and then multiplying (A) the excess of the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the First Company Merger Effective Time over the per share exercise price of such Notional Adjusted Option, if any, by (B) the number of shares of New Charter Common Stock subject to such Notional Adjusted Option to the extent unexercised. For the avoidance of doubt, all Former Employee Options outstanding as of the First Company Merger Effective Time that if converted into a Company Adjusted Option would have a per share exercise price equal to or exceeding the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the First Company Merger Effective Time shall be immediately cancelled and forfeited without any liability on the part of Parent, New Charter or their respective Affiliates.

(ii) At or promptly after the Second Company Merger Effective Time, each outstanding Company RSU (each, a “**Former Employee RSU**”) held by a Former Employee, whether or not vested, shall be canceled, and New Charter shall pay each such Former Employee at or promptly after the Second Company Merger Effective Time for each such Former Employee RSU an amount in cash computed by first determining the number of Notional Adjusted RSUs held by such Former Employee and then multiplying (A) the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the First Company Merger Effective Time by (B) the number of shares of New Charter Common Stock with respect to the Notional Adjusted RSUs; provided, that, to the extent that any Former Employee RSU is subject to Section 409A of the Code, then such Former Employee RSU shall be converted into a Company Adjusted RSU in accordance with the terms of Section 2.04(b).

(e) Parent and New Charter shall take such actions as are necessary for the assumption of the Company Stock Options and Company RSUs pursuant to Sections 2.04(a) and (b), including the reservation, issuance and listing of New Charter Common Stock as is necessary to effectuate the transactions contemplated by this Section 2.04. Parent and New Charter shall prepare and file with the SEC a registration statement on an appropriate form, or a post-effective amendment to a registration statement previously filed under the 1933 Act, with respect to the shares of New Charter Common Stock subject to the Company Adjusted Options and Company Adjusted RSUs to be issued by New Charter and, where applicable, shall use its reasonable best efforts to have such registration statement declared effective as soon as practicable following the Effective Time and to maintain the effectiveness of such registration statement covering such Company Adjusted Options and Company Adjusted RSUs (and to maintain the current status of the prospectus contained therein) for so long as any Company Adjusted Option or any Company Adjusted remains outstanding. With respect to those individuals, if any, who, subsequent to the Effective Time, will be subject to the reporting requirements under Section 16(a) of the 1934 Act, where applicable, New Charter shall administer any Company Adjusted Option and any Company Adjusted RSU issued pursuant to this Section 2.04 in a manner that complies with Rule 16b-3 promulgated under the 1934 Act to the extent the corresponding Company Stock Option or such Company RSU complied with such rule prior to the Mergers.

(f) Prior to the First Company Merger Effective Time, the Company and Parent shall take any actions with respect to equity compensation plans or arrangements that are necessary to give effect to the transactions contemplated by this Section 2.04.

Section 2.05 *Parent Equity-Based Awards.* (a) The terms of each outstanding compensatory option to purchase shares of Parent Class A Common Stock (each, a “**Parent Stock Option**”), whether or not exercisable or vested, shall be adjusted as necessary to provide that, at the Parent Merger Effective Time, each Parent Stock Option outstanding immediately prior to the Parent Merger Effective Time shall be converted into an option (each, a “**Parent Adjusted Option**”) to acquire, on the same terms and conditions as were applicable under such Parent Stock Option immediately prior to the Parent Merger Effective Time, the number of shares of New Charter Common Stock equal to the product of (i) the number of shares of Parent Class A Common Stock subject to such Parent Stock Option immediately prior to the Parent Merger Effective Time multiplied by (ii) the Parent Merger Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares. The exercise price per share of New Charter Common Stock subject to any such Parent Adjusted Option shall be an amount equal to the quotient of (A) exercise price per share of Parent Class A Common Stock subject to such Parent Stock Option immediately prior to the Parent Merger Effective Time divided by (B) the Parent Merger Exchange Ratio, with any fractional cents rounded up to the next higher number of whole cents. Notwithstanding the foregoing, if the conversion of a Parent Stock Option in accordance with the preceding provisions of this Section 2.05(a) would cause the related Parent Adjusted Option to be treated as the grant of new stock right for purposes of Section 409A of the Code, such Parent Stock Option shall not be converted in accordance with the preceding provisions but shall instead be converted in a manner reasonably acceptable to Parent and the Company that would not cause the related Parent Adjusted Option to be treated as the grant of new stock right for purposes of Section 409A.

(b) The terms of each outstanding award of shares of restricted Parent Stock (each, a “**Parent Stock Award**”) shall be adjusted as necessary to provide that, at the Parent Merger Effective Time, each Parent Stock Award outstanding immediately prior to the Parent Merger Effective Time shall be converted into an award (each, a “**Parent Adjusted Stock Award**”) with respect to, and subject to the same terms and conditions as were applicable under such Parent Stock Award immediately prior to the Parent Merger Effective Time, the number of shares of restricted New Charter Common Stock equal to the product of (i) number of shares of Parent Class A Common Stock subject to such Parent Stock Award immediately prior to the Parent Merger Effective Time multiplied by (ii) the Parent Merger Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares.

(c) The terms of each outstanding restricted stock unit with respect to shares of Parent Stock (each, a “**Parent RSU**”), whether or not vested, shall be adjusted as necessary to provide that, at the Parent Merger Effective Time, each Parent RSU outstanding immediately prior to the Parent Merger Effective Time shall be converted into a restricted stock unit (each, a “**Parent Adjusted RSU**”) with respect to, and on the same terms and conditions as were applicable under such Parent RSU immediately prior to the Parent Merger Effective Time, the number of shares of New Charter Common Stock equal to the product of (i) the number of shares of Parent Class A Common Stock subject to such Parent RSU immediately prior to the Parent

Merger Effective Time multiplied by (ii) the Parent Merger Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares.

(d) Parent and New Charter shall take such actions as are necessary for the assumption of the Parent Stock Options, Parent Stock Awards and Parent RSUs pursuant to Sections 2.05(a), (b) and (c), including the reservation, issuance and listing of New Charter Common Stock as is necessary to effectuate the transactions contemplated by this Section 2.05. New Charter shall prepare and file with the SEC a registration statement on an appropriate form, or a post-effective amendment to a registration statement previously filed under the 1933 Act, with respect to the shares of New Charter Common Stock subject to the Parent Adjusted Options, Parent Adjusted Stock Awards and Parent Adjusted RSUs to be issued by New Charter and, where applicable, shall use its reasonable best efforts to have such registration statement declared effective as soon as practicable following the Parent Merger Effective Time and to maintain the effectiveness of such registration statement covering such Parent Adjusted Options, Parent Adjusted Stock Awards and Parent Adjusted RSUs (and to maintain the current status of the prospectus contained therein) for so long as any Parent Adjusted Option, Parent Adjusted Stock Award or Parent Adjusted RSU remains outstanding. With respect to those individuals, if any, who, subsequent to the Parent Merger Effective Time, will be subject to the reporting requirements under Section 16(a) of the 1934 Act, where applicable, New Charter shall administer any Parent Adjusted Option, Parent Adjusted Stock Award and Parent Adjusted RSU issued pursuant to this Section 2.05 in a manner that complies with Rule 16b-3 promulgated under the 1934 Act to the extent the corresponding Parent Stock Option, Parent Stock Award or Parent RSU complied with such rule prior to the Mergers.

(e) Prior to the Parent Merger Effective Time, the Company and Parent shall take any actions with respect to equity compensation plans or arrangements that are necessary to give effect to the transactions contemplated by this Section 2.05.

**Section 2.06 Adjustments.** If, during the period between the date of this Agreement and the First Company Merger Effective Time, the outstanding shares of capital stock of the Company or Parent shall have been changed into a different number of shares or a different class by reason of any reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, or any stock dividend thereon with a record date during such period, or any other similar event, but excluding any change that results from (a) the exercise of stock options or other equity awards to purchase shares of Parent Class A Common Stock or Company Stock or the settlement of restricted stock units or deferred stock units or (b) the grant of equity-based compensation to directors or employees of Parent or, subject to and in accordance with the terms of this Agreement, the Company under Parent's or the Company's, as applicable, equity compensation plans or arrangements, the Merger Consideration, amounts payable under Section 2.04 and any other amounts payable pursuant to this Agreement, as applicable, shall be appropriately and proportionately adjusted.

**Section 2.07 Fractional Shares.** No fractional shares of Company Surviving Corporation Stock shall be issued in the First Company Merger and no fractional shares of New Charter Common Stock shall be issued in the Parent Merger. All fractional shares of Company Surviving Corporation Stock that a holder of record of shares of Company Stock would otherwise be entitled to receive as a result of the First Company Merger shall be aggregated and if a

fractional share results from such aggregation, such holder shall be entitled to receive, in lieu thereof, an amount in cash without interest determined by multiplying the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the First Company Merger Effective Time by the fraction of a share of Company Surviving Corporation Stock to which such holder would otherwise have been entitled. All fractional shares of New Charter Common Stock that a holder of record of shares of Parent Class A Common Stock would otherwise be entitled to receive as a result of the Parent Merger shall be aggregated and if a fractional share results from such aggregation, such holder shall be entitled to receive, in lieu thereof, an amount in cash without interest determined by multiplying the closing sale price of a share of Parent Class A Common Stock on NASDAQ on the trading day immediately preceding the Parent Merger Effective Time by the fraction of a share of New Charter Common Stock to which such holder would otherwise have been entitled.

Section 2.08 *Withholding*. Notwithstanding any provision contained herein to the contrary, each of the Exchange Agent, the Company, the Parent Surviving Entity, the Company Surviving Corporation, Merger Subsidiary One, Merger Subsidiary Two, Merger Subsidiary Three, New Charter and Parent shall be entitled to deduct or withhold from the consideration otherwise payable to any Person pursuant to this Article 2 such amounts as it is required to deduct or withhold with respect to the making of such payment under any provision of federal, state, local or foreign tax law. The Company shall, and shall cause its Affiliates to, assist Parent, New Charter, Parent Surviving Entity, Company Surviving Corporation, Merger Subsidiary One, Merger Subsidiary Two and/or Merger Subsidiary Three in making such deductions and withholding as reasonably requested by Parent or New Charter. If the Exchange Agent, the Company, the Parent Surviving Entity, the Company Surviving Corporation, Merger Subsidiary One, Merger Subsidiary Two, Merger Subsidiary Three, New Charter or Parent, as the case may be, so withholds amounts and timely pays such amounts to the appropriate taxing authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the shares of Company Stock or Parent Class A Common, as applicable, in respect of which the Exchange Agent, the Company, the Parent Surviving Entity, the Company Surviving Corporation, Merger Subsidiary One, Merger Subsidiary Two, Merger Subsidiary Three, New Charter or Parent, as the case may be, made such deduction and withholding.

Section 2.09 *Lost Certificates*. If 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 required by New Charter or the Company Surviving Corporation, the posting by such Person of a bond, in such reasonable amount as New Charter and the Company Surviving Corporation may direct, 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 to be paid in respect of the shares of Company Stock or Parent Class A Common Stock represented by such Certificate and any dividends or distributions with respect thereto pursuant to Section 2.03(h), as contemplated by this Article 2.

Section 2.10 *Appraisal Rights*.

(a) Notwithstanding any provision of this Agreement to the contrary and to the extent available under Delaware Law, shares of Company Stock that are outstanding imme-

diately prior to the First Company Merger Effective Time and that are held by holders of shares of Company Stock who shall have neither voted in favor of the First Company Merger nor consented thereto in writing and who shall have demanded properly in writing appraisal for such shares of Company Stock in accordance with Section 262 of Delaware Law (collectively, the "Dissenting Shares"), shall not be converted into, or represent the right to receive, the Company Merger Consideration (or, for the avoidance of doubt, the Cheetah Merger Consideration). The holders of such shares of Company Stock shall be entitled instead to receive only the payment provided by Section 262 of Delaware Law, except that all Dissenting Shares held by holders of shares of Company Stock who shall have failed to perfect or who effectively shall have withdrawn or lost their rights to appraisal of such shares of Company Stock under Section 262 of Delaware Law shall thereupon be deemed to have been converted into, and to have become exchangeable for, as of the First Company Merger Effective Time, the right to receive the Company Merger Consideration (which shall represent, with respect to the Company Stock Merger Consideration, the right to receive the New Charter Merger Consideration), in each case without any interest thereon, in accordance with Section 2.02.

(b) The Company shall give Parent and New Charter (i) prompt notice of any demands for appraisal received by the Company, withdrawals of such demands, and any other instruments served pursuant to Delaware Law and received by the Company and (ii) the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under Delaware Law. The Company shall not, except with the prior written consent of Parent, make any payment with respect to any demands for appraisal or offer to settle or settle any such demands.

Section 2.11 *Restructuring*. If such actions required to treat the Company's Subsidiaries as disregarded from their owner for U.S. federal income tax purposes or contribute the Company's assets and interests in its Subsidiaries to Subsidiaries of New Charter following the Closing Date would result in a cost that is material to Parent, then, upon the written request of Parent, the Parties agree to reasonably cooperate in the implementation of a restructuring of the transactions contemplated herein (including, without limitation, restructuring such transaction such that the Second Company Merger, the Parent Merger, the equity subscription and exchange contemplated by the Subscription and Exchange Agreement and the contribution of the assets subject to the Amended Contribution Agreement to New Charter, taken together, would be treated as a transaction described in Section 351 of the Code). Such cooperation shall include entering into appropriate amendments to this Agreement, provided, however, that, notwithstanding anything in this Section 2.11 to the contrary, such cooperation contemplated by this Section 2.11 shall (a) not (i) alter or change the amount or kind of the consideration ultimately to be issued to the holders of Company Stock or the holders of Parent Class A Common Stock or (ii) reasonably be expected to (x) subject to the proviso in clause (b) below, adversely affect the Company or the holders of Company Stock or (y) have the effect of materially delaying, impairing or impeding the receipt of any regulatory approvals required in connection with the transactions contemplated hereby or the Closing and (b) result in U.S. federal income tax consequences that are no less favorable to the holders of Company Stock and the holders of Parent Class A Common Stock than the U.S. federal income tax consequences of the Mergers; provided that it is agreed and understood that for purposes of this Section 2.11 a transaction qualifying as a transaction described in Section 351 of the Code does not result in tax consequences that are less favorable to the holders of Company Stock and the holders of Parent Class A Common Stock than the

U.S. federal income tax consequences of the Mergers and does not adversely affect the Company or the holders of Company Stock.

### **ARTICLE 3** **Corporate Matters**

Section 3.01 *Organizational Documents of Surviving Entities.* (a) The certificate of incorporation and bylaws of the Company as in effect immediately prior to the First Company Merger Effective Time shall be the certificate of incorporation and bylaws, respectively, of the Company Surviving Corporation immediately following the First Company Merger Effective Time until the Second Company Merger Effective Time.

(b) The limited liability company agreement of Merger Subsidiary Two as in effect immediately prior to the Second Company Merger Effective Time shall be the limited liability company agreement of the Second Merger Subsidiary Surviving Entity immediately following the Second Company Merger Effective Time until thereafter amended in accordance with Applicable Law.

(c) The limited liability company agreement of Merger Subsidiary Three as in effect immediately prior to the Parent Merger Effective Time shall be the limited liability company agreement of the Parent Surviving Entity immediately following the Parent Merger Effective Time until thereafter amended in accordance with Applicable Law.

(d) Immediately after the Parent Merger Effective Time, the certificate of incorporation of New Charter shall be amended to change the name of New Charter to "Charter Communications, Inc."

Section 3.02 *Directors and Officers of Surviving Entities.* (i) From and after the First Company Merger Effective Time, until the Second Company Merger Effective Time, the members of the Board of Directors of the Company immediately prior to the First Company Merger Effective Time shall be the members of the Board of Directors of the Company Surviving Corporation, (ii) from and after the Second Company Merger Effective Time, until successors are duly elected or appointed and qualified in accordance with Applicable Law, the managers and officers of Merger Subsidiary Two immediately prior to the Second Company Merger Effective Time shall be the managers and officers of the Second Merger Subsidiary Surviving Entity, (iii) the officers of the Company immediately before the First Company Merger Effective Time shall be the officers of the Company Surviving Corporation immediately following the First Company Merger Effective Time, and (iv) the officers of Parent immediately prior to the Parent Merger Effective Time shall be the officers of the Parent Surviving Entity immediately following the Parent Merger Effective Time.

### **ARTICLE 4** **Representations and Warranties of the Company**

Subject to Section 11.05, except (a) as disclosed in the Company SEC Documents (as defined below) filed or furnished by the Company with the SEC since January 1, 2014 and before the date of this Agreement (the "**Specified Company SEC Documents**") or (b) as set forth in the Company Disclosure Schedule, the Company represents and warrants to Parent that:

Section 4.01 *Corporate Existence and Power.* The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate powers and all Governmental Authorizations required to carry on its business as now conducted, except for those Governmental Authorizations the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Prior to the date hereof, the Company has delivered or made available to Parent true and complete copies of the certificate of incorporation and bylaws of the Company as in effect on the date of this Agreement.

Section 4.02 *Corporate Authorization.* (a) The execution, delivery and performance by the Company of this Agreement and the Voting Agreement and the consummation by the Company of the transactions contemplated hereby and thereby are within the Company's corporate powers and, except for the required approval of the Company's stockholders in connection with the consummation of the Merger, have been duly authorized by all necessary corporate action on the part of the Company. The affirmative vote of the holders of a majority of the outstanding shares of Company Stock (the "**Company Stockholder Approval**") is the only vote of the holders of any of the Company's capital stock necessary in connection with the consummation of the transactions contemplated hereby, including the First Company Merger and the Second Company Merger. This Agreement, assuming due authorization, execution and delivery by Parent, New Charter, Merger Subsidiary One, Merger Subsidiary Two, Merger Subsidiary Three, and the Voting Agreement, assuming due authorization, execution and delivery by Liberty Broadband, constitute valid and binding agreements of the Company enforceable against the Company in accordance with their respective terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(b) At a meeting duly called and held, as of the date of this Agreement, the Company's Board of Directors has (i) unanimously determined that this Agreement and the Voting Agreement and the transactions contemplated hereby and thereby are fair to and in the best interests of the Company's stockholders, (ii) unanimously approved and declared advisable this Agreement and the transactions contemplated hereby and (iii) unanimously resolved, subject to Section 6.03(b), to recommend adoption of this Agreement by its stockholders (such recommendation, the "**Company Board Recommendation**").

Section 4.03 *Governmental Authorization.* The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental Authority, other than (i) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which the Company is qualified to do business, (ii) compliance with any applicable requirements of the HSR Act, (iii) compliance with any applicable requirements of the Communications Act, (iv) authorizations from state public utility commissions and similar state authorities having jurisdiction over the assets of the Company and its Subsidiaries, (v) compliance with any state statutes or local franchise ordinances and agreements,

(vi) compliance with any applicable requirements of the 1933 Act, the 1934 Act and any other applicable state or federal securities laws, (vii) compliance with any applicable requirements of the New York Stock Exchange (the "NYSE") and (viii) any actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or materially interfere with or delay the consummation of the Mergers.

Section 4.04 *Non-contravention.* The execution, delivery and performance by the Company of this Agreement and the Voting Agreement and the consummation of the transactions contemplated hereby and thereby do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of the Company, (ii) assuming compliance with the matters referred to in Section 4.03, contravene, conflict with or result in a violation or breach of any provision of any Applicable Law, (iii) assuming compliance with the matters referred to in Section 4.03, require any consent or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Company or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon the Company or any of its Subsidiaries or any license, franchise, permit, certificate, approval or other similar authorization affecting, or relating in any way to, the assets or business of the Company and its Subsidiaries or (iv) result in the creation or imposition of any Lien, other than any Permitted Lien, on any asset of the Company or any of its Subsidiaries, with only such exceptions, in the case of each of clauses (ii) through (iv), as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or materially interfere with or delay the consummation of the Mergers.

Section 4.05 *Capitalization.* (a) The authorized capital stock of the Company consists of 8,333,333,333 shares of Company Stock and 1,000,000,000 shares of preferred stock, par value \$0.01, of the Company ("**Company Preferred Stock**"). As of May 21, 2015, there were outstanding (A) 282,752,157 shares of Company Stock, (B) Company Stock Options to purchase an aggregate of 2,734,928 shares of Company Stock at a weighted-average exercise price of \$76.38 per share of Company Stock (of which options to purchase an aggregate of 1,261,654 shares of Company Stock were exercisable), (C) Company RSUs with respect to an aggregate of 5,190,285 shares of Company Stock, (D) no shares of Company Preferred Stock and (E) no shares of restricted Company Stock outstanding. All outstanding shares of capital stock of the Company have been, and all shares that may be issued pursuant to any equity compensation plan or arrangement will be, when issued in accordance with the respective terms thereof, duly authorized and validly issued, fully paid and nonassessable and free of preemptive rights. No Subsidiary of the Company owns any shares of capital stock of the Company or any Company Securities.

(b) There are no outstanding bonds, debentures, notes or other indebtedness of the Company having the right to vote on an as-converted basis (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company may vote. As of May 21, 2015, except as set forth in this Section 4.05 and except for changes since such date resulting from the exercise of Company Stock Options or the settlement of Company RSUs, in each case outstanding on such date, there are no issued, reserved for issuance or outstanding (i) shares of capital stock or other voting securities of or other ownership interests in

the Company, (ii) securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of or other ownership interests in the Company, (iii) warrants, calls, options or other rights to acquire from the Company, or other obligation of the Company to issue, any shares of capital stock, voting securities or securities convertible into or exchangeable for capital stock or other voting securities of or other ownership interests in the Company or (iv) restricted shares, stock appreciation rights, performance units, contingent value rights, "phantom" stock or similar securities or rights issued or granted by the Company or any of its Subsidiaries that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any shares of capital stock or other voting securities of or other ownership interests in the Company (the items in clauses (i) through (iv) being referred to collectively as the "Company Securities"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Securities. Neither the Company nor any of its Subsidiaries has sponsored an employee stock purchase plan. Neither the Company nor any of its Subsidiaries is a party to any voting trust, proxy, voting agreement or other similar agreement with respect to the voting of any Company Securities.

(c) The shares of Company Surviving Corporation Stock to be issued as part of the Merger Consideration have been duly authorized and, when issued and delivered in accordance with the terms of this Agreement, will have been validly issued and will be fully paid and nonassessable and the issuance thereof is not subject to any preemptive or other similar right.

Section 4.06 *Subsidiaries*. (a) Each Subsidiary of the Company is an entity duly incorporated or otherwise duly organized, validly existing and (where applicable) in good standing under the laws of its jurisdiction of incorporation or organization, except where the failure to be so incorporated, organized, existing or in good standing would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each Subsidiary of the Company has all corporate, limited liability company or comparable powers and all Governmental Authorizations required to carry on its business as now conducted, except for those powers or Governmental Authorizations the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each such Subsidiary is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company 10-K identifies, as of its filing date, all "significant subsidiaries" (as defined under Rule 1-02(w) of Regulation S-X promulgated pursuant to the 1934 Act) of the Company (each, a "Significant Subsidiary") and their respective jurisdictions of organization.

(b) All of the outstanding capital stock or other voting securities of or other ownership interests in each Subsidiary of the Company, are owned by the Company, directly or indirectly, free and clear of any Lien and free of any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other voting securities or other ownership interests). There are no issued, reserved for issuance or outstanding (i) securities of the Company or any of its Subsidiaries convertible into, or exchangeable for, shares of capital stock or other voting securities of or other ownership interests in any Subsidiary of the Company, (ii) warrants, calls, options or other rights to acquire from the Company or any of its Subsidiaries, or other obligations of the Company or any of its Subsidiaries to issue, any

shares of capital stock or other voting securities of or other ownership interests in or any securities convertible into, or exchangeable for, any shares of capital stock or other voting securities of or other ownership interests in any Subsidiary of the Company or (iii) restricted shares, stock appreciation rights, performance units, contingent value rights, "phantom" stock or similar securities or rights issued or granted by the Company or any of its Subsidiaries that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or other voting securities of or other ownership interests in any Subsidiary of the Company (the items in clauses (i) through (iii) being referred to collectively as the "**Company Subsidiary Securities**"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Subsidiary Securities.

(c) Section 4.06(c) of the Company Disclosure Schedule lists, as of the date of this Agreement, each Person other than a Subsidiary of the Company in which the Company owns, directly or indirectly, any shares of capital stock or other voting securities or other ownership interests, other than (i) publicly traded securities held for investment which do not exceed 5% of the outstanding securities of any Person and (ii) securities held by any employee benefit plan of the Company or any of its Subsidiaries or any trustee or other fiduciary in such capacity under any such employee benefit plan (each, a "**Company Investment**"). All of the capital stock or other voting securities of or other ownership interests in each Company Investment that are owned, directly or indirectly, by the Company, are owned by the Company or a Subsidiary of the Company free and clear of all Liens and any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such shares of capital stock or other voting securities or other ownership interests), except Liens under Applicable Law and restrictions on transfer set forth in the agreements governing any such Company Investment.

Section 4.07 *SEC Filings and the Sarbanes-Oxley Act.* (a) The Company has filed with or furnished to the SEC (including following any extensions of time for filing provided by Rule 12b-25 promulgated under the 1934 Act) all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by the Company since January 1, 2012 (collectively, together with any exhibits and schedules thereto and other information incorporated therein, the "**Company SEC Documents**").

(b) As of its filing date (or as of the date of any amendment filed prior to the date hereof), each Company SEC Document complied, and each Company SEC Document filed subsequent to the date hereof will comply, as to form in all material respects with the applicable requirements of the 1933 Act and the 1934 Act and the Sarbanes-Oxley Act, as the case may be.

(c) As of its filing date (or, if amended or superseded by a subsequent filing prior to the date hereof, on the date of such filing), each Company SEC Document filed or furnished pursuant to the 1934 Act did not, and each Company SEC Document filed or furnished subsequent to the date hereof will not, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect.

(d) Each Company SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the 1933 Act, as of the date such registration

statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in any material respect.

(e) The Company has established and maintains disclosure controls and procedures (as defined in Rule 13a-15 under the 1934 Act). Such disclosure controls and procedures are designed to ensure that material information relating to the Company, including its consolidated Subsidiaries, is made known to the Company's principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the 1934 Act are being prepared. Such disclosure controls and procedures are reasonably effective in timely alerting the Company's principal executive officer and principal financial officer to material information required to be included in the Company's periodic and current reports required under the 1934 Act. For purposes of this Agreement, "**principal executive officer**" and "**principal financial officer**" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(f) The Company and its Subsidiaries have established and maintained a system of internal controls over financial reporting (as defined in Rule 13a-15 under the 1934 Act) ("**internal controls**"). Such internal controls are sufficient to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of Company financial statements for external purposes in accordance with GAAP. The Company has disclosed, based on its most recent evaluation of internal controls prior to the date hereof, to the Company's auditors and audit committee (i) any significant deficiencies and material weaknesses in the design or operation of internal controls which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in internal controls. The Company has made available to Parent prior to the date hereof a summary of any such disclosure made by management to the Company's auditors and audit committee since January 1, 2012.

(g) Neither the Company nor any of its Subsidiaries has extended or maintained credit, arranged for the extension of credit, or renewed an extension of credit, in the form of a personal loan to or for any executive officer (as defined in Rule 3b-7 under the 1934 Act) or director of the Company in violation of Section 402 of the Sarbanes-Oxley Act.

(h) The Company is in compliance, and has complied, in each case in all material respects with (i) the applicable provisions of the Sarbanes-Oxley Act and (ii) the applicable listing and corporate governance rules and regulations of the NYSE.

(i) Each of the principal executive officer and principal financial officer of the Company (or each former principal executive officer and principal financial officer of the Company, as applicable) have made all certifications required by Rules 13a-14 and 15d-14 under the 1934 Act and Sections 302 and 906 of the Sarbanes-Oxley Act and any related rules and regulations promulgated by the SEC and the NYSE, and the statements contained in any such certifications are complete and correct.

(j) The Company has delivered or made available to Parent, prior to the date hereof, copies of the documentation creating or governing all securitization transactions and other off-balance sheet arrangements (as defined in Item 303 of Regulation S-K of the SEC) that existed or were effected by the Company or its Subsidiaries since January 1, 2012.

(k) Since the Company Balance Sheet Date, there has been no transaction, or series of similar transactions, agreements, arrangements or understandings, nor is there any proposed transaction as of the date of this Agreement, or series of similar transactions, agreements, arrangements or understandings to which the Company or any of its Subsidiaries was or is to be a party, that would be required to be disclosed under Item 404 of Regulation S-K promulgated under the 1933 Act that has not been disclosed in the Company's Form 10-K/A filed with the SEC on April 27, 2015.

Section 4.08 *Financial Statements*. The audited consolidated financial statements and unaudited consolidated interim financial statements of the Company included or incorporated by reference in the Company SEC Documents (including all related notes and schedules thereto) fairly present in all material respects, in conformity with GAAP (except, in the case of unaudited consolidated interim financial statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis (except as may be indicated therein or in the notes thereto), the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows for the periods then ended (subject to normal year-end audit adjustments in the case of any unaudited interim financial statements).

Section 4.09 *Disclosure Documents*. The information supplied by the Company in writing for inclusion or incorporation by reference in the registration statement on Form S-4 or any amendment or supplement thereto pursuant to which shares of New Charter Common Stock issuable as part of the Merger Consideration will be registered with the SEC (the "**Registration Statement**") shall not at the time the Registration Statement is declared effective by the SEC (or, with respect to any post-effective amendment or supplement, at the time such post-effective amendment or supplement becomes effective) contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The information supplied by the Company in writing for inclusion in the joint proxy statement/prospectus, or any amendment or supplement thereto, to be sent to the Company stockholders and Parent stockholders in connection with the Merger and the other transactions contemplated by this Agreement (the "**Joint Proxy Statement/Prospectus**") shall not, on the date the Joint Proxy Statement/Prospectus, and any amendments or supplements thereto, is first mailed to the stockholders of the Company or the shareholders of Parent, at the time of the Company Stockholder Approval or at the time of the Parent Stockholder Approval contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The representations and warranties contained in this Section 4.09 will not apply to statements or omissions included or incorporated by reference in the Registration Statement or Joint Proxy Statement/Prospectus based upon information furnished by Parent or Merger Subsidiary or any of their respective representatives or advisors in writing specifically for use or incorporation by reference therein.

Section 4.10 *Absence of Certain Changes.* (a) From the Company Balance Sheet Date through the date of this Agreement, (i) the business of the Company and its Subsidiaries has been conducted in the ordinary course of business consistent with past practice in all material respects and (ii) there has not been any event, occurrence, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) From the Company Balance Sheet Date until the date hereof, there has not been any action taken by the Company or any of its Subsidiaries that, if taken during the period from the date of this Agreement through the Effective Time without Parent's consent, would constitute a breach of clause (b), (e), (f), (g), (h), (i), (l), (m), (o), (p) or (t) (as it relates to clauses (b), (e), (f), (g), (h), (i), (l), (m), (o) or (p)) of Section 6.01.

Section 4.11 *No Undisclosed Material Liabilities.* There are no liabilities or obligations of the Company or any of its Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than:

(a) liabilities or obligations disclosed, reflected, reserved against or otherwise provided for in the Company Balance Sheet or in the notes thereto;

(b) liabilities or obligations incurred in the ordinary course of business consistent with past practices since the Company Balance Sheet Date;

(c) liabilities or obligations arising out of this Agreement or the transactions contemplated hereby; and

(d) liabilities or obligations that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.12 *Compliance with Laws and Court Orders; Governmental Authorizations.* (a) The Company and each of its Subsidiaries is and since January 1, 2013 has been in compliance with, and to the knowledge of the Company is not under investigation with respect to and has not been threatened to be charged with or given notice of any violation of, any Applicable Law, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or to materially interfere with or delay the consummation of the Merger. There is no judgment, decree, injunction, rule or order of any arbitrator or Governmental Authority outstanding against the Company or any of its Subsidiaries that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or that, as of the date hereof, seeks to materially interfere with or delay the consummation of the Merger.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and each of its Subsidiaries has all Governmental Authorizations necessary for the ownership and operation of its businesses and each such Governmental Authorization is in full force and effect. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and each of its Subsidiaries (i) is and since January 1, 2012 has been in compliance with the terms of all Governmental Authorizations and (ii) has not received written notice from

any Governmental Authority alleging any conflict with or breach of any Governmental Authorization.

Section 4.13 *Litigation*. There is no action, suit, investigation or proceeding pending against, or, to the knowledge of the Company, threatened against the Company, any of its Subsidiaries, any present or former officer, director or employee of the Company or any of its Subsidiaries or any other Person for whom the Company or any of its Subsidiaries may be liable or any of their respective properties may be affected before (or, in the case of threatened actions, suits, investigations or proceedings, that would be before) or by any Governmental Authority or arbitrator, that (i) would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or (ii) as of the date hereof, seeks to materially interfere with or delay the consummation of the Merger.

Section 4.14 *Properties*. (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and its Subsidiaries, have good title to, or valid leasehold interests in, all property and assets reflected on the Company Balance Sheet or acquired after the Company Balance Sheet Date, subject to Permitted Liens, except as have been disposed of since the Company Balance Sheet Date in the ordinary course of business consistent with past practice.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) each lease, sublease or license (each, a "Lease") under which the Company or any of its Subsidiaries leases, subleases or licenses any real property is valid and in full force and effect and (ii) neither the Company nor any of its Subsidiaries, nor to the Company's knowledge any other party to a Lease, has violated any provision of, or taken or failed to take any act which, with or without notice, lapse of time, or both, would constitute a default under the provisions of such Lease, and neither the Company nor any of its Subsidiaries has received notice that it has breached, violated or defaulted under any Lease.

Section 4.15 *Intellectual Property*. (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company or one of its Subsidiaries is the owner of the Owned Intellectual Property Rights and holds all right, title and interest in and to all Owned Intellectual Property Rights and the Company's or its applicable Subsidiary's rights under all Licensed Intellectual Property Rights, in each case free and clear of any Lien (other than any Permitted Lien) and (ii) the Company and its Subsidiaries own or have a valid and enforceable license to use all Intellectual Property Rights necessary to, or used or held for use in, the conduct of the business of the Company and its Subsidiaries as currently conducted.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) neither the Company nor any of its Subsidiaries has infringed, induced or contributed to the infringement of, misappropriated or otherwise violated any Intellectual Property Right of any Person and (ii) there is no claim, action, suit, investigation or proceeding pending against, or, to the knowledge of the Company, threatened against, the Company or any of its Subsidiaries or any of their respective present or former officers, directors or employees (A) based upon, or challenging or seeking to deny or restrict, the rights of the Company or any of its Subsidiaries in any of the Owned Intellectual Property Rights

or Licensed Intellectual Property Rights, (B) alleging that any Owned Intellectual Property Right or Licensed Intellectual Property Right is invalid or unenforceable, or (C) alleging that the use of any of the Owned Intellectual Property Rights or Licensed Intellectual Property Rights or any services provided, processes used or products manufactured, used, imported or sold by the Company or any of its Subsidiaries do or may conflict with, misappropriate, infringe or otherwise violate any Intellectual Property Right of any Person.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company and its Subsidiaries have taken all actions reasonably necessary to maintain and protect the Owned Intellectual Property Rights and the Company's and its applicable Subsidiary's interest in any Licensed Intellectual Property Rights, including all Intellectual Property Rights of the Company the value of which to the Company is contingent upon maintaining the confidentiality thereof, (ii) none of the material Owned Intellectual Property Rights have been adjudged invalid or unenforceable in whole or part, and to the knowledge of the Company, all issued or registered Owned Intellectual Property Rights are valid and enforceable in all material respects, and (iii) to the knowledge of the Company, no Person has infringed, misappropriated or otherwise violated any Owned Intellectual Property Right.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the IT Assets operate and perform in a manner that permits the Company and each of its Subsidiaries to conduct its business as currently conducted, and (ii) the Company and its Subsidiaries have taken commercially reasonable actions, consistent with current industry standards, to protect the confidentiality, integrity and security of the IT Assets (and all information and transactions stored or contained therein or transmitted thereby) against any unauthorized use, access, interruption, modification or corruption, and to the knowledge of the Company, no Person has gained unauthorized access to the IT Assets (or the information and transactions stored or contained therein or transmitted thereby).

(e) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company and its Subsidiaries have at all times complied with all Applicable Laws relating to privacy, data protection and the collection and use of personal information and user information gathered or accessed in the course of its operations, and (ii) no claims have been asserted or threatened against the Company or any of its Subsidiaries (and to the knowledge of the Company, no such claims are likely to be asserted or threatened) by any Person alleging a violation of such Person's privacy, personal or confidentiality rights under any such Applicable Laws.

Section 4.16 *Taxes*. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect:

(a) (i) each income or franchise Tax Return and each other material Tax Return required to be filed with any Taxing Authority by the Company or any of its Subsidiaries has been filed when due and is true and complete in all material respects;

(ii) the Company and each of its Subsidiaries has timely paid to the appropriate Taxing Authority all Taxes shown as due and payable on all Tax Returns that have been so filed;

(iii) the accruals and reserves with respect to Taxes as set forth on the Company Balance Sheet are adequate (as determined in accordance with GAAP);

(iv) adequate accruals and reserves (as determined in accordance with GAAP) have been established for Taxes attributable to taxable periods (or portions thereof) from the Company Balance Sheet Date;

(v) there is no action, suit, investigation, proceeding or audit pending or, to the Company's knowledge, threatened against or with respect to the Company or any of its Subsidiaries in respect of any material Tax; and

(vi) there are no Liens for material Taxes on any of the assets of the Company or any of its Subsidiaries other than Liens for Taxes not yet due or being contested in good faith (and, in either case, which have been disclosed on Section 4.16(a)(vi) of the Company Disclosure Schedule) or for which adequate accruals or reserves have been established on the Company Balance Sheet.

(b) Under the Tax Sharing Agreement with Time Warner Inc. ("TWX"), the Company is not responsible for income and franchise taxes for taxable periods prior to and including March 31, 2003. The Company was part of the TWX federal consolidated tax return through March 12, 2009.

(c) During the two-year period ending on the date hereof, none of the Subsidiaries of the Company was a distributing corporation or a controlled corporation in a transaction intended to be governed by Section 355 of the Code.

(d) (i) Other than the Tax Sharing Agreement with TWX, neither the Company nor any of its Subsidiaries is, or has been, a party to any Tax Sharing Agreement (other than an agreement exclusively between or among the Company and its Subsidiaries) pursuant to which it will have any obligation to make any payments for Taxes after the Effective Time and (ii) neither the Company nor any of its Subsidiaries has been a member of an affiliated group filing a consolidated federal income Tax Return (other than a group the common parent of which was the Company or TWX).

(e) Neither the Company nor any of its Subsidiaries has participated in a "reportable transaction" within the meaning of Treasury Regulations Section 1.6011-4(b)(1).

(f) No jurisdiction in which the Company or any of its Subsidiaries does not file Tax Returns has asserted that the Company or any of its Subsidiaries is or may be liable for Tax in that jurisdiction.

(g) None of the Subsidiaries of the Company owns any Company Stock.

Section 4.17 *Employees and Employee Benefit Plans.* (a) Section 4.17(a) of the Company Disclosure Schedule contains a correct and complete list identifying each material "employee benefit plan," as defined in Section 3(3) of ERISA, each material employment contract, material severance contract or plan and each other material plan or agreement providing for compensation, bonuses, profit-sharing, equity compensation or other forms of incentive or de-



Mixed Sources  
www.fsc.org Cert no. SW-COC-002980  
© 1996 Forest Stewardship Council



**Programming Interests Held by Advance/Newhouse Partnership or any Affiliated Persons**

\*Excludes interests of less than 5%.

**Attributable Interests in National Programming Services**

**A. Discovery Communications Inc.**

Discovery  
TLC  
Animal Planet  
OWN  
Investigation Discovery  
Discovery Family  
Science  
Destination America  
Discovery en Español  
Discovery Familia  
Velocity  
Discovery Life  
American Heroes Channel

Advance/Newhouse Programming Partnership has a 32.81 % interest in Discovery Communications Inc.

**B. iN DEMAND**

Bright House Networks LLC owns 5.3% of iN DEMAND.