

**AGREEMENT AND PLAN OF MERGER**

Dated  
August 16, 2016

By and among:

CANTON REGIONAL CHAMBER OF COMMERCE

and

JACKSON-BELDEN CHAMBER OF COMMERCE

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## **AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER (the “Agreement”) is made as of August 16, 2016, by and among **Canton Regional Chamber of Commerce** (sometimes herein referred to as “CRCC”), and **Jackson-Belden Chamber of Commerce** (sometimes herein referred to as “JBCC”).

### **RECITALS**

A. CRCC is a not-for-profit corporation, organized under the laws of the State of Ohio, having its principal place of business at 222 Market Ave. N. in Canton, Ohio.

B. JBCC is a not-for-profit corporation, organized under the laws of the State of Ohio, having its principal place of business at 5735 Wales Avenue N.W. in Jackson Township, Stark County, Ohio.

C. CRCC and JBCC have determined that it is in their respective best interests to merge (the “Merger”), pursuant to the terms and conditions herein provided, in an effort to, among other things, focus their efforts to bring new jobs to the area and to develop new programs to retain existing jobs, to foster small business development, to increase networking opportunities through new member programs, to combine the collective power and energy of the Membership, volunteers and professional staff from both entities which will give rise to creative thinking and new substantive events, and to exert a more positive impact on the their key priorities throughout the region.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants, representations, warranties, rights and obligations contained herein, CRCC and JBCC with intent to be legally bound, agree that the foregoing recitals are incorporated herein by reference, and as follows:

## **ARTICLE I**

### **Certain Definitions**

**1.1 Certain Definitions.** The following terms are used in this Agreement with the meanings set forth below:

“*Agreement*” means this Agreement and Plan of Merger.

“*Closing*” has the meaning set forth in Section 2.2.

“*Compensation and Benefit Plans*” has the meaning set forth in Section 4.1(m).

“*Effective Date*” has the meaning set forth in Section 2.2.

“*Effective Time*” has the meaning set forth in Section 2.2.

“*Employees*” has the meaning set forth in Section 4.1(m).

“*Environmental Laws*” means all applicable local, state and federal environmental, health and safety laws, rules and regulations, including the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Clean Water Act, the Federal Clean Air Act, and the Occupational Safety and Health Act, each as amended, and all state counterparts of each of the foregoing.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended.

“*Financial Statements*” has the meaning set forth in Section 4.1(h).

“*Good Standing*” has the meaning set forth in Section 5.5.

“*Governmental Authority*” means any court, administrative agency or commission or other federal, state or local governmental authority or instrumentality, including the Internal Revenue Service.

“*Internal Revenue Code*” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“*Material Adverse Effect*” means, with respect to a Party, any effect that (i) is material and adverse to the financial position, results of operations or business, taken as a whole, of the Party, or (ii) would materially impair the ability of either Party to perform its obligations under this Agreement or otherwise materially threaten or materially impede the consummation of the Merger and the other transactions contemplated by this Agreement; *provided, however*, that

Material Adverse Effect shall not be deemed to include the impact of (a) changes in insurance, investments and similar laws of general applicability or interpretations thereof by courts or governmental authorities or other changes affecting insurance agencies generally; (b) any modifications or changes to a Party's policies and practices in connection with the Merger or restructuring taken in connection with the Merger; (c) changes resulting from expenses (such as legal and accounting fees) incurred in connection with this Agreement or the transactions contemplated herein; and (d) actions or omissions of a party which have been waived in accordance with Section 8.2 hereof.

*"Merger"* has the meaning set forth in Recital C to this Agreement.

*"Party"* means in the singular the CRCC or JBCC, as the context requires, and in the plural both the CRCC and JBCC.

*"Person"* means any individual, bank, corporation, limited liability company, partnership, association, joint-stock company, business trust or unincorporated organization.

*"Previously Disclosed Information"* means information exchanged by CRCC and JBCC and in response to their due diligence lists, or otherwise.

*"Respective Party"* means the Party on whose behalf a Person has executed this Agreement, and/or the Party with respect to which the Person makes a representation and/or warranty in this Agreement.

*"Surviving Corporation"* has the meaning set forth in Section 2.1.

*"Tax" and "Taxes"* means all federal, state, local or foreign taxes, charges, fees, levies or other assessments, including without limitation unrelated business income tax, however denominated, including all net income, gross income, gains, gross receipts, sales, use, ad valorem, goods and services, capital, production, transfer, franchise, windfall profits, license, withholding, payroll, employment, disability, employer health, excise, estimated, severance, stamp, occupation, property, environmental, unemployment or other taxes, custom duties, fees, assessments or charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by any taxing authority based upon income, events or acts arising or occurring before the Effective Date.

*"Tax Returns"* means any Form 990, return, amended return or other report (including elections, declarations, disclosures, schedules, estimates and information returns) required to be filed under the Internal Revenue Code or by any Governmental Authority.

## ARTICLE II

### The Merger

**2.1 *The Merger.*** Upon the terms and subject to satisfaction of the conditions precedent contained in this Agreement, at the Effective Time, JBCC shall be merged with and into CRCC pursuant to Section 1702.41 through Section 1702.44 of the Ohio Revised Code. It is the intention of the parties that each party is a tax exempt entity under 501 (C) (6) of the Internal Revenue Code and the Merger contemplated in this Agreement will be without tax consequences to both parties. Upon consummation of the Merger, the Canton Regional Chamber of Commerce shall continue to exist under the laws of the State of Ohio as the surviving corporation, and the separate corporate existence of the Jackson-Belden Chamber of Commerce shall cease. As used in this Agreement, the term “Surviving Corporation” refers to the Canton Regional Chamber of Commerce on and after the Effective Time.

**2.2 *Effective Date, Effective Time, and Closing.*** The effective date of the Merger (the “Effective Date”) shall be the filing date of, or a subsequent date specified in, the Certificate of Merger in the form required by Ohio Revised Code § 1702.43 filed in Office of the Secretary of State of Ohio pursuant to Section 3.1(d) hereof. On or prior to the Effective Date, and subject to the satisfaction or waiver of the conditions set forth in Article VI, the parties shall conduct a closing (the “Closing”). The Closing shall take place on or before August 16, 2016 at the offices of the CRCC, or at such other time and place as the parties may agree. All deliveries at the Closing shall be deemed to have occurred simultaneously on the Effective Date and no delivery will be deemed to have been completed until all deliveries are complete. The time on the Effective Date when the Merger shall be deemed to be completed is referred to as the “Effective Time.” The Effective Time shall be deemed to occur at 5:00 p.m., Eastern Standard Time, on the Effective Date.

**2.3 *Merger Consideration.*** Neither party shall have any payment obligations to the other, and no money will change hands, as a result of the Merger, except for the assumption of financial obligations and other contractual as herein specifically provided, or as the parties may mutually agree in writing.

**2.4 *Organizational Matters.*** Following the Merger, the following shall govern the Surviving Corporation:

- (a) *Name.* The name of the Surviving Corporation shall be “Canton Regional Chamber of Commerce”.
- (b) *Principal Place of Business.* On and after the Effective Time of the Merger, the principal office of the Surviving Corporation will be 222 Market Ave. N. in Canton, Ohio. A satellite office will remain open in Jackson Township for an indefinite period to be determined by the Board of Directors of the Surviving Corporation, for the benefit and convenience of small business members in Jackson Township.
- (c) *Articles of Incorporation.* The Articles of Incorporation of the CRCC in effect at and as of the Effective Time shall become the Articles of Incorporation of the Surviving Corporation without any modification or amendment in the Merger.



- (d) *Code of Regulations.* Prior to the Effective Date, the CRCC will take all necessary actions to amend its 2004 Amended Regulations to reflect the changes in the Board of Directors and the Executive Committee during the Transition Period as herein provided, in accordance with Article XIII of said 2004 Amended Regulations. Said amended Regulations of the CRCC shall be the regulations of the Surviving Corporation.
- (e) *Directors.* The names and addresses of the first directors of the Surviving Corporation immediately after the Effective Time are set forth on Exhibit A, which Exhibit is attached hereto and incorporated herein by reference.

The parties acknowledge that the pre-merger Board of Directors of the CRCC is comprised of thirty (30) members representing organizations which are members of the CRCC. The parties hereby agree that within fourteen (14) days after the Effective Date (“Board Selection Period”), the Board of Directors of the Surviving Corporation will be increased to thirty-six (36) members for a period of three (3) calendar years after January 1, 2017 (the “Transition Period”). The additional six (6) members of the Board of Directors will be representatives of the pre-merger JBCC (the “Transitional Board Members”), who shall be appointed by mutual consent of the pre-merger JBCC Executive Committee and the pre-merger CRCC Executive Committee. In the event that the parties do not mutually agree to the Transitional Board Members during the Board Selection Period, the pre-merger JBCC Executive Committee and the pre-merger CRCC Executive Committee shall each appoint three (3) JBCC representatives as Transitional Board Members. None of the Transitional Board Members will be associated with any organization represented on the CRCC Board of Directors prior to the Effective Date. Each of the Transitional Board Members will serve for a three (3) year term, which term shall be deemed to commence on January 1, 2017.

- (f) *Officers.* As of the Effective Time, the Officers of the Surviving Corporation will consist of the President/CEO, Chairperson of the Board of Directors, Senior Vice Chairperson of the Board of Directors, Treasurer and Secretary, and a number of Vice Chairpersons of the Board of Directors as the Board of Directors may determine from time to time, which during the Transition Period shall not be less than five (5) Vice Chairpersons. The names and addresses of the Officers immediately after the Effective Time are set forth on Exhibit B, which Exhibit is attached hereto and incorporated herein by reference. Any additional Vice Chairpersons will be appointed during the Board Selection Period set forth below in Section 2.4 (g).
- (g) *Executive Committee.* The parties hereby agree that during the Board Transition Period the Executive Committee of the Surviving Corporation will be increased from nine (9) members to eleven (11) members. The two (2) additional members of the Executive Committee will be chosen during the Board Selection Period from among the Transitional Board Members, by mutual consent of the pre-merger JBCC Executive Committee and the pre-merger CRCC Executive Committee. In the event that pre-merger JBCC Executive Committee and the pre-merger CRCC Executive Committee are unable to reach consensus regarding appointment of the new Executive Committee during the Board Transition Period, the pre-Merger JBCC Executive Committee and the pre-Merger CRCC Executive Committee shall each appoint one (1) new Director from

among the Transitional Board Members to serve on the Surviving Corporation's Executive Committee. During the Transition Period, the members of the Executive Committee will be comprised of a Chairperson of the Board, Senior Vice Chairperson of the Board, President/CEO, Treasurer, Secretary, five (5) Vice Chairpersons of the Board, and the immediate past Chairperson of the Board. The Secretary position on the Board of Directors and the Executive Committee will be a non-voting position.

- (h) *Post Transition Board.* After the Transition Period, the Board of Directors will consist of thirty (30) elected representatives of the Surviving Corporation's Membership, plus those Officers set forth in the Surviving Corporation's Code of Regulations, as amended. After the Transition Period, the Executive Committee will consist of the Chairperson of the Board, Senior Vice Chairperson of the Board, President/CEO, Treasurer, Secretary, immediate past Chairperson of the Board, and such Vice Chairpersons of the Board as the Board of Directors shall determine from time to time. All of the foregoing Directors and those individuals serving on the Executive Committee will be selected in accordance with the Surviving Corporation's Code of Regulations, as amended.
- (i) *Statutory Agent.* The Statutory Agent upon whom process, notice, or demand against the Surviving Corporation may be served is Dennis P. Saunier, whose address is 222 Market Avenue N., Canton, Ohio 44702.

### ARTICLE III

#### Closing Deliveries and Obligations

**3.1 Deliveries and Obligations.** Subject to the provisions of this Agreement, the following shall occur at the Closing:

- (a) *Execution of Agreement.* A duly authorized person or persons of each Party shall execute this Agreement in order to create a legally binding obligation.
- (b) *Good Standing.* Each entity shall deliver to the other a Certificate of Good Standing, and a certified copy of their complete and most up to date Articles of Incorporation from the Secretary of State of Ohio and the most recent Code of Regulations and/or By-Laws, as amended.
- (c) *Certificate of Merger.* The parties shall execute and deliver a Certificate of Merger in the form required by the Ohio Secretary of State substantially in the form attached hereto as Exhibit C, and cause it to be filed with the Ohio Secretary of State, accompanied by the necessary filing fee, which fee will be paid by the CRCC. Upon execution of this Agreement both parties hereby authorize counsel for CRCC to file the Certificate of Merger. The Certificate of Merger shall be filed on or before 11:59 p.m. on the date of Closing.

- (d) *Commercial Lease.* JBCC shall have executed and delivered a written consent executed by the Landlord of any Real Property Lease to which it is a tenant, approving the assignment and assumption of said lease by CRCC.
- (e) *JBCC Titled Property.* JBCC will take all actions and execute all documents necessary to transfer all titled personal property and accounts (including cash accounts) to the Surviving Corporation.

**Commented [ACCT1]:** Subject to a conversation with Jackson Township, JBCC's current landlord. But this also begs the question what CRCC wants to do with/about JBCC's space in the basement of the Jackson Township administration building.

## ARTICLE IV

### Representations and Warranties

**4.1 Representations and Warranties of the Parties.** Each Person signing below for his or her Respective Party jointly and severally, represent and warrant to the other Party as set forth below. For purposes of this Agreement the term "Knowledge of the Respective Party" means actual knowledge of the Executive Committee of the Respective Party to whom that term applies. Nothing in this Agreement shall require said Executive Committee or a member thereof to engage in any investigation of applicable law to which the term "Knowledge of the Respective Party" may relate or apply.

- (a) *Organization, Standing and Authority.* The Respective Party is an Ohio not-for-profit corporation duly organized under Chapter 1702 of the Ohio Revised Code, validly existing and in good standing under the laws of the State of Ohio, and is duly qualified to do business in the State of Ohio.
- (b) *Subsidiaries.* The Respective Party does not own beneficially, directly or indirectly, any controlling equity or other interest of any Person, or any interest in any other entity or joint venture of any kind other than non-controlling interests in marketable securities held in the ordinary course of business.
- (c) *Corporate Power.* The Respective Party has the legal power and authority to carry on its business as it is now being conducted and to own all its properties and assets and has the legal power and authority to execute, deliver and perform its obligations under this Agreement and to consummate the transaction contemplated hereby.
- (d) *Authority.* This Agreement and the transaction contemplated hereby have been authorized by all necessary corporate action of the Respective Party. This Agreement is a valid and legally binding obligation of the Respective Party, enforceable against the Respective Party in accordance with its terms (except as enforceability may be limited by general equitable principles including principles of commercial reasonableness, good faith and fair dealing).
- (e) *Consents and Approvals.* To the Knowledge of the Respective Party, no consents or approvals of, or filings or registrations with, any Governmental Authority or with any third party are required to be made or obtained by the Respective Party in connection with the execution, delivery or its required performance under this Agreement or to

consummate the Merger, except for the Certificate of Merger referenced in this Agreement.

- (f) *No Violation.* The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (i) conflict with or result in a breach of any of the terms, conditions or provisions of the Respective Party's Articles of Incorporation, Code of Regulations and/or By-Laws; nor (ii) in any material respect, violate, conflict with or result in a breach of or default under any of the terms, conditions or provisions of any material agreement, understanding, arrangement, indenture, contract, lease, sublease, loan agreement, note, restriction, obligation or liability to which the Respective Party is a party or by which it is bound or to which it or its assets are subject (individually, an "Instrument" and collectively, the "Instruments"); nor (iii) in any material respect, accelerate or give to others any interests or rights, including rights of acceleration, termination, modification or cancellation, under any Instrument or in or with respect to the business or assets of the Respective Party; nor (iv) in any material respect, result in the creation of any lien, claim, charge or encumbrance on the assets or properties of the Respective Party; nor (v) to the Knowledge of the Respective Party, in any material respect, conflict with, violate or result in a breach of or constitute a default under any material law, statute, rule, judgment, order, decree, injunction, ruling or regulation of any government, governmental agency, authority or instrumentality, court or arbitration tribunal to which the Respective Party or any of its assets or properties are subject; nor (vi) require the Respective Party to give notice to, or obtain an authorization, approval, order, license, franchise, declaration or consent of, or make a filing with, any third party, including, any foreign, federal, state, county, local or other governmental or regulatory body, except for the Certificate of Merger contemplated by Section 3.1(d) hereof or those described or listed in Section 4.1(f) above.
- (g) *Previously Disclosed Information.* Prior to the date hereof, the Respective Party has delivered to the other Party certain information and materials (hereinafter referred to as "Previously Disclosed Information") in connection with the Merger and/or in response to a due diligence checklist jointly developed by the Parties and their counsel. All Previously Disclosed Information is to the Knowledge of the Respective Party true and correct copies of originals, and all information and materials Previously Disclosed Information are or were, to the Knowledge of the Respective Party, true, correct and complete in all material respects as of the respective dates on which the same were provided or disclosed to the other Party. Through the Effective Date, there has been no material change in any of the Previously Disclosed Information.
- (h) *Financial Reports.*
- (i) The financial statements of the Respective Party reflecting the periods ending December 31 for calendar years 2013, 2014, 2015, and the 1<sup>st</sup> half 2016, including all notes and schedules thereto, and its internally prepared interim financial statements (the "Financial Statements") are part of the Previously Disclosed Information. The Financial Statements (A) were prepared in accordance with past practices, and (B) did not contain any untrue statement of a material fact or omit to state a material fact required to make the statements therein, in light of the circumstances under which they were made, not misleading. Each of the

Financial Statements (including the related notes and schedules thereto) fairly presents the financial position of the Respective Party as of its date, and each of the statements of income and changes in owners' equity and cash flows or equivalent statements in such Financial Statements (including any related notes and schedules thereto) fairly presents, the results of operations, changes in owners' equity and cash flows, as the case may be, of the Respective Party for the periods to which they relate, in each case in accordance with past practices consistently applied during the periods involved, except as otherwise may be noted therein, subject to normal year-end adjustments and the absence of footnotes in the case of interim statements.

- (ii) Since June 30, 2016, the Respective Party has not incurred any material liability that is not disclosed in the Financial Statements, other than in the ordinary course of business consistent with past practice.
  - (iii) Since June 30, 2016, the Respective Party has conducted its business in the ordinary and usual course consistent with past practice (excluding matters related to this Agreement and the transactions contemplated hereby), and to the Knowledge of the Respective Party no event has occurred or circumstance arisen that, individually or taken together with all other facts, circumstances and events, is reasonably likely to have a Material Adverse Effect on the operations of the Respective Party.
  - (iv) Except to the extent reflected or reserved against in its last balance sheet included in the Financial Statements, to the Knowledge of the Respective Party, the Respective Party has no material liabilities which are required to be reflected on a balance sheet, whether absolute, incurred, contingent or otherwise, and whether due or to become due, including any material liabilities for Taxes.
- (i) *Litigation.* No litigation, claim or other proceeding before any court or governmental agency is pending against the Respective Party which is reasonably likely to have a Material Adverse Effect and to the Knowledge of the Respective Party no such litigation, claim or other proceeding has been threatened and no basis for any such litigation, claim or proceeding exists.
- (j) *Regulatory Matters.*
- (i) To the Knowledge of the Respective Party, neither the Respective Party nor any of its properties is a party to or is subject to any order, decree, agreement, memorandum of understanding or similar arrangement with, or a commitment letter or similar submission to, or extraordinary supervisory letter from, any Governmental Authority.
  - (ii) the Respective Party has not been advised by any Governmental Authority that such Governmental Authority is contemplating issuing or requesting (or is considering the appropriateness of issuing or requesting) any such order, decree, agreement, memorandum of understanding, commitment letter, supervisory letter or similar submission.

(k) *Compliance with Laws.*

- (i) To the Knowledge of the Respective Party, the Respective Party is in compliance in all material respects with all applicable federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders or decrees applicable to it or to the employees conducting its business;
- (ii) To the Knowledge of the Respective Party, the Respective Party has all permits, licenses, authorizations, orders and approvals of, and has made all filings, applications and registrations with, all Governmental Authorities that are material to its business and required in order to permit it to own or lease its properties and to conduct its business as presently conducted; all such permits, licenses, certificates of authority, orders and approvals are in full force and effect and, to the Knowledge of the Respective Party, no suspension or cancellation of any of them is threatened; and
- (iii) the Respective Party has received no notification or communication from any Governmental Authority (A) asserting that the Respective Party is not in compliance with any of the statutes, regulations, or ordinances which such Governmental Authority enforces or (B) threatening to revoke any license, franchise, permit, or governmental authorization (nor, to the Knowledge of the Respective Party, do any grounds for any of the foregoing exist).

Commented [ACC2]: Subject to confirmation with client that all filings/registrations up to date.

(l) *Contracts; Defaults.*

- (i) Attached hereto as Exhibit D is a complete and accurate list of the following which has been communicated by JBCC as part of the Previously Disclosed Information: (A) each contract that involves performance of service or delivery of goods or materials by the JBCC of an amount or value in excess of \$5,000 over the twelve (12) months following the date of this Agreement; (B) each contract that was not entered into in the ordinary course of business and that involves expenditures or receipts of the JBCC in excess of \$5,000 over the twelve (12) months following the date of this Agreement; (C) each lease, rental or occupancy agreement, license, installment and conditional sale agreement, and other contract affecting the ownership of, leasing of, title to, use of, or any leasehold or other interest in, any real or personal property; (D) each licensing agreement or other contract with respect to patents, trademarks, copyrights, or other intellectual property, including agreements with current or former employees, consultants, or contractors regarding the appropriation or the non-disclosure of any of the intellectual property of JBCC; (F) each contract providing for payments to or by any Person to JBCC based on sales or purchases.
- (ii) Except as set forth in Exhibit E and excluding this Agreement, the Respective Party is not a party to, bound by or subject to any Agreement, contract, arrangement, commitment or understanding (whether written or oral) that restricts or limits in any way its freedom to engage in any type of business activity for which an Ohio not-for-profit entity is authorized to engage under Ohio law. To

the Knowledge of the Respective Party, it is not in default under any contract, agreement, commitment, arrangement, lease, insurance policy or other instrument to which it is a party, by which its respective assets, business, or operations are bound, except for any such defaults as neither individually nor in the aggregate will result in a Material Adverse Effect on the operations of the Respective Party, and, to the knowledge of the Respective Party, there has not occurred any event that, with the lapse of time or the giving of notice or both, would constitute such a default.

- (m) *JBCC Employee Benefit and Compensation Plans.* The undersigned Person who has executed this Agreement on behalf of the JBCC hereby represents and warrants to CRCC:
- (i) JBCC has no bonus, incentive, deferred compensation, pension, retirement, profit-sharing, thrift, savings, employee stock ownership, stock bonus, stock purchase, restricted stock, stock option, severance, welfare and fringe benefit plans, employment or severance agreements, and it does not engage in any similar practices, policies and arrangements with respect to any employee or former employee (“Employee”), consultant or former consultant (“Consultant”), or current or former director (“Director”), or to which JBCC is a party (the “Compensation and Benefit Plans”). JBCC does not have any commitment to create any additional Compensation and Benefit Plan or to modify or change any existing Compensation and Benefit Plan.
  - (ii) Except as disclosed on Exhibit F, and to the best of the JBCC Executive Committee’s knowledge, consummation of the transactions contemplated by this Agreement would not, directly or indirectly (including as a result of any termination of employment prior to or following the Effective Time) (A) entitle any Employee, Consultant or Director to any payment (including severance pay or similar compensation) or any increase in compensation under any compensation Plan, (B) result in the vesting or acceleration of any benefits under any compensation plan, or (C) result in any material increase in benefits payable under any compensation plan.
- (n) *Environmental Matters.* Neither the conduct or operation of the Respective Party, nor any condition caused or contributed to by the Respective Party of any property presently or previously owned, leased or operated by it (including in a fiduciary or agency capacity) violates or violated any Environmental Laws, and, to the Knowledge of the Respective Party, no condition has existed or event has occurred with respect to any of them or any such property that, with notice or the passage of time, or both, could reasonably be expected to result in liability under Environmental Laws. The Respective Party has not received any notice from any person or entity that the Respective Party or the operation or condition of any property ever owned, leased, or operated by the Respective Party, is or was in violation of or otherwise are alleged to have liability under any Environmental Law, including responsibility (or potential responsibility) for the cleanup or other remediation of any pollutants, contaminants, or hazardous or toxic wastes, substances or materials at, on, beneath, or originating from any such property.

- (o) *Tax Matters.* (i) All Tax Returns have been duly filed by the Respective Party; (ii) no issues that have been raised by the relevant taxing authority within the past three years in connection with the examination of any of the Tax Returns; (iii) there are no pending, and no waivers of statutes of limitation that are still in effect have been given by or requested with respect to, any Taxes. Each Respective Party has made available to the other Party true and correct copies (including subsequent amendments) of the three most recent United States federal income Tax Returns filed by the Respective Party (i.e., for tax years ending December 31 of 2013, 2014 and 2015).
- (p) *Books and Records.* The books and records of the Respective Party have been fully, properly and accurately maintained in all material respects, there are no material inaccuracies or discrepancies of any kind contained or reflected in such books and records, and they fairly reflect in all material respects the substance of events and transactions included therein.
- (q) *Insurance.* Attached hereto as Exhibit G is a true and complete list of all of the insurance policies, binders, or bonds maintained by the Respective Party. All such insurance policies are in full force and effect; the Respective Party is not in material default thereunder; and all claims thereunder have been filed in due and timely fashion. Except as set forth in Exhibit H, the Respective Party has not made any claim against its errors and omissions insurance coverage from the period beginning January 1, 2011 through the Effective Date, nor has any policy providing such coverage to a Respective Party been canceled, non-renewed or had the amount of coverage reduced during such period.
- (r) *JBCC Members.* Attached hereto as Exhibit I is a complete and accurate list of the names, addresses, and contact person(s), and annual dues for all of the JBCC Members in Good Standing as of the Effective Date (the "Member List"). There are no pending or, to the Knowledge of the Respective Party, threatened, material disputes with any of the JBCC members shown on the Member List, and no member shown on the Member List has grounds upon which such a material dispute could be based, and no such member has expressed to the JBCC any intention to cancel or reduce its membership.
- (s) *JBCC Employee Accruals.* Except as disclosed on Exhibit J there are no accrued vacation days, sick days or pay for any employee of JBCC.
- (t) *JBCC Workers' Compensation.* The workers' compensation premiums and experience of the JBCC is accurately reflected on Exhibit K attached hereto and, to the Knowledge of the JBCC Respective Party, no occurrence or circumstance which is not reflected on Exhibit K has occurred which will or could potentially negatively affect the workers' compensation premiums for the JBCC, or its claim history.
- (u) *Assets.* All of the Respective Party's assets are free and clear of all liens, pledges, security interests or other encumbrances of any nature whatsoever, except as reflected on Exhibit L, attached hereto.
- (v) *Disclosure.* The representations and warranties contained in this Section 4.1 do not contain any untrue statement of a material fact or omit to state any material fact necessary



in order to make the statements made in this Section 4.1, in light of the circumstances under which they were made, not misleading.

- (w) *Future Performance.* Notwithstanding any provision in this Agreement or in any Exhibit, attachment, or associated document, neither the Respective Party, nor Officer or Executive Committee thereof, warrants that the future financial performance of the Respective Party will repeat its past financial performance or meet any financial goals after the Effective Date.

## ARTICLE V

### Covenants

**5.1 Reasonable Best Efforts.** Subject to the terms and conditions of this Agreement, each of the Parties agree to use all reasonable efforts in good faith to take, or cause to be taken, all reasonable actions, and to do, or cause to be done, all things reasonably necessary, proper or desirable, or advisable under applicable laws, so as to permit consummation of the Merger as promptly, as practicably, and otherwise to enable consummation of the transactions contemplated hereby, and shall cooperate fully with the other parties hereto to that end; provided, however, that no party will be required to waive any provision of this Agreement.

**5.2 Press Releases.** The Parties will issue a joint press release after the Effective Date of the Merger when and in such form as the President/CEO of the CRCC and the President of the JBCC shall mutually agree. No Party, and no Person associated with a Party, will, without the prior approval by the Presidents of both Parties, issue any press release or written statement for general circulation or make any other public statement or announcement relating to the Merger.

**5.3 Notification of Certain Matters.** The President of each Party, shall give prompt notice to the President of the other Party of any fact, event or circumstance known to them that (i) is reasonably likely, individually or taken together with all other facts, events and circumstances known to them, to result in any Material Adverse Effect with respect such Party, or (ii) would cause or constitute a material breach of any of its or their representations, warranties, covenants or agreements contained herein.

**5.4 Committees of Surviving Corporation.** Immediately after the Effective Date and during the Transition Period, the Surviving Corporation will endeavor in good faith to maintain the committees, programs and events set forth on Exhibit M, which Exhibit is attached hereto and incorporated herein by reference. Provided, however, that notwithstanding the foregoing, at any time after the Effective Date, the Executive Committee of the Surviving Corporation may eliminate or modify any committee, program, or event that it deems to be duplicative and able to be merged with another committee, program or event, or which it deems not to be financially viable, in its sole and absolute discretion.

**5.5 Current JBCC Members.** Both Parties hereby agree that the JBCC members in Good Standing as of the Effective Date, which are set forth on Exhibit N attached to this Agreement (“Current JBCC Member(s)”) shall enjoy the following benefits in connection with

their membership dues in the Surviving Corporation (for purposes of this Section 5.5 and this Agreement, the term “Good Standing” means a member who is in compliance with the Code of Regulations or By-laws, and other applicable rules of the respective Party and has paid all membership dues and assessments due and payable through the Effective Date):

- (a) *Concurrent Membership.* Current JBCC Members who are also members of the CRCC in Good Standing on the Effective Date will receive a pro-rated credit for the period from the Effective Date through December 31, 2016 which pro-rated amount will be credited against the next annual CRCC membership dues payable by the Member in 2017. Said credit will be based on the JBCC dues actually paid by the Current JBCC Member to the JBCC in 2016.
- (b) *Donation of Credit.* The Current JBCC Members who are entitled to receive the credit set forth above in Section 5.5 (i) may donate such credit amount to the Canton Regional Chamber of Commerce Foundation.
- (c) *Non-concurrent Members.* Each Current JBCC Member who is not a member of the CRCC as of the Effective Date shall be entitled to be a member of the Surviving Corporation for a period commencing on the Effective Date through December 31, 2017, at a membership dues rate equal to the membership dues which the Current JBCC Member actually paid to the JBCC in 2016.

**5.6 Tiered Membership Model.** The Parties agree that the Surviving Corporation will develop and introduce a new membership dues model which will likely take effect in 2017, pursuant to which a member of the Surviving Corporation in Good Standing will have the opportunity to select from among various membership packages providing differing services that best suit such member. The CRCC has approved the Tier One benefits package and cost structure, which is attached hereto as Exhibit O and incorporated herein by reference. It is anticipated that the membership package under said new membership dues model which provides the lowest level of membership services will be priced at substantially the same dues rate as the lowest CRCC membership rate available immediately prior to the Effective Date.

**5.7 Employees of JBCC.** On and after the Effective Time, the Surviving Corporation shall not be required to employ any employee of the JBCC, except as follows:

- (a) *Chief Operating Officer.* The individual serving as the JBCC President immediately prior to the Effective Date will be employed on an “AT WILL” basis as Chief Operating Officer by the Surviving Corporation which employment will include a benefits package to be negotiated.
- (b) *Sales Executive.* The Surviving Corporation will employ the individual serving as the sole JBCC Sales Executive immediately prior to the Effective Date, which individual will be employed on an “AT WILL” basis as part of the Surviving Corporation’s membership programs and services team.

**5.8 Post-closing JBCC Filing Obligations.** After the Effective Time, the pre-closing JBCC Executive Committee shall take all actions necessary to complete and file an appropriate Form 990 and all other legally required reports and filings. Said Form 990 and other required

filings shall not be prepared or filed by the Surviving Corporation or its personnel, and shall be prepared and filed at no cost to the Surviving Corporation.

## ARTICLE VI

### Conditions to Consummation of the Merger

**6.1 Conditions to Each Party's Obligation to Effect the Merger.** The respective obligation of each of Party to consummate the Merger is subject to the fulfillment on or prior to the Effective Time of each of the following conditions:

- (a) *Closing Deliveries.* Each party has completed all of the obligations set forth in Section 3.1 of this Agreement, and all deliveries therein provided have been complete.
- (b) *Representations and Warranties.* The representations and warranties set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Effective Date as though made on and as of the Effective Date (except that representations and warranties that by their terms speak as of the date of this Agreement or some other date shall be true and correct as of such date).
- (c) *Performance of Obligations.* Each Party shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Effective Time.

## ARTICLE VII

### Miscellaneous

**7.1 Survival.** Notwithstanding the right of the JBCC and CRCC to fully investigate each other's affairs and the Previously Disclosed Information, and notwithstanding any knowledge of facts determined or determinable by JBCC and CRCC pursuant to such investigation or right of investigation, each party has the right to rely fully upon the representations, warranties, covenants and agreements contained in this Agreement or in any certificate, document or agreement delivered pursuant to this Agreement. All representations, warranties, covenants and agreements of the Parties shall survive the execution and delivery of this Agreement and the Closing.

**7.2 Waiver; Amendment.** Any provision of this Agreement may be (i) waived by the Party benefited by the provision, or (ii) amended or modified at any time, by an agreement in writing of the Parties executed in the same manner as this Agreement.

**7.3 Counterparts.** This Agreement may be executed in two or more counterparts which are identical to all other counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument.



**7.8 Interpretation; Effect.** When a reference is made in this Agreement to Sections and Exhibits, such reference shall be to a Section of, or an Exhibit to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”.

**7.9 Arbitration.** All disputes between the Parties hereto shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association (“AAA”). A single neutral arbitrator who is knowledgeable about the merger of not-for-profit chambers of commerce will conduct the arbitration. The arbitrator will be selected by the parties, but if the parties are unable to agree to the selection of a single arbitrator within thirty (30) days, the arbitrator shall be selected in accordance with the AAA’s usual rules and procedures. The arbitrator’s decision and award shall be final and binding, and either party may enter it in any court having jurisdiction. The arbitrator will not have authority to award punitive or other non-compensatory damages to either party. The arbitration will be held in the City of Canton or such other location where the Parties mutually agree. Expenses of arbitration shall be split equally between the Parties. Neither Party shall have the right to seek injunctive relief in relation to any threatened conduct through a court of competent jurisdiction, which right is hereby forever irrevocably waived.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement and Plan of Merger to be executed by their duly authorized officers, all as of the day and year first above written.

CANTON REGIONAL CHAMBER OF COMMERCE

By: \_\_\_\_\_  
Dennis P. Saunier  
Its: President and CEO

By: \_\_\_\_\_  
Brain S. Belden, Secretary

JACKSON-BELDEN CHAMBER OF COMMERCE

By: \_\_\_\_\_  
Steven M. Meeks  
Its: President

By: \_\_\_\_\_, Secretary

