

# F99000004146

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

C T CORPORATION SYSTEM

Requestor's Name  
660 East Jefferson Street

Address  
Tallahassee, FL 32301 (850)222-1092

City State Zip Phone

EFFECTIVE DATE  
12/15/99

CORPORATION(S) NAME

200003068132--2  
-12/13/99--01115--003  
\*\*\*\*\*70.00 \*\*\*\*\*70.00

Nazareth Medical Group, Inc.  
merging into: The Plastic Surgery Company

- Profit
- NonProfit
- Limited Liability Company
- Foreign
- Limited Partnership
- Reinstatement
- Limited Liability Partnership
- Certified Copy
- Call When Ready
- Walk In
- Mail Out
- Amendment
- Dissolution/Withdrawal
- Annual Report
- Reservation
- Photo Copies
- Call if Problem
- Will Wait
- Merge
- Mark
- Other
- Change of B.A.
- Fictitious Name
- CUS
- After 4:30
- Pick Up

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W.P. Verifier	

12/13

PLEASE RETURN EXTRA COPY(S)  
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THANKS

LAURA EARNEST

Need effective date 12/15/99 - Thanks!

ARTICLES OF MERGER  
Merger Sheet

-----  
MERGING:

NAZARETH MEDICAL GROUP, INC., a FL corp., 516470

into

**ADVANCED COSMETIC SURGERY CENTER, INC.**, a Georgia entity  
F99000004146

File date: December 13, 1999

Corporate Specialist: Susan Payne



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

December 14, 1999

CT Corporation System

Tallahassee, FL

SUBJECT: THE PLASTIC SURGERY COMPANY doing business in Florida as  
ADVANCED COSMETIC SURGERY CENTER, INC.  
Ref. Number: F99000004146

We have received your document for THE PLASTIC SURGERY COMPANY doing business in Florida as ADVANCED COSMETIC SURGERY CENTER, INC. and check(s) totaling \$70.00. However, the enclosed document has not been filed and is being returned to you for the following reason(s):

Please complete paragraph SECOND AND THIRD of the Articles of Merger giving the date of adoption for each corporation. With reference to paragraph third if the merger was adopted by the board of directors alone and shareholder approval was not required, please add a statement to that effect.

The name of the person signing the document must be typed or printed beneath or opposite the signature.

Please return a copy of this letter along with your document to ensure proper handling.

If you have any questions concerning this matter, please either respond in writing or call (850) 487-6901.

Susan Payne  
Senior Section Administrator

Letter Number: 899A00058625

*Changes made,  
please file backdated to 12/13/99.  
Thanks! Laura E.*

STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER  
OF

The Plastic Surgery Company  
AND  
Nazareth Medical Group, Inc.

EFFECTIVE DATE  
12/15/99

To the Secretary of State  
State of Florida

Pursuant to the provisions of the Florida Business Corporation Act, the foreign business corporation and the domestic business corporation herein named do hereby submit the following Articles of Merger.

FIRST: Annexed hereto and made a part hereof is the Plan of Merger for merging Nazareth Medical Group, Inc. with and into The Plastic Surgery Company.

SECOND: The merger of Nazareth Medical Group, Inc. with and into The Plastic Surgery Company is permitted by the laws of the jurisdiction of organization of Nazareth Medical Group, Inc. and is in compliance with said laws. The date of adoption of the Plan of Merger by the shareholders of Nazareth Medical Group, Inc. was September, 17, 1999.

THIRD: The Board of Directors of The Plastic Surgery Company approved and adopted the aforesaid Plan of Merger by written consent given on May, 6, 1999 in accordance with the provisions of Section 14-2-1103 of the Georgia Business Corporation Code. ~~Action by the shareholders was not required pursuant to the Georgia Business Corporation code.~~  
Executed on this 9th day of August, 1999.

The Plastic Surgery Company

By: [Signature]  
Name: Jonathan E. Wilfong  
Capacity: Chairman of the Board

Effective December 15, 1999

Nazareth Medical Group, Inc.

By: [Signature]  
Name: Richard M. Nazareth, M.D.  
Capacity: President

## AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (this "Agreement") is made and executed as of the 21<sup>st</sup> day of June, 1999, by and among The Plastic Surgery Company, a Georgia corporation, formerly known as Better Image, Inc. ("Better Image"), Nazareth Medical Group, Inc., a Florida corporation (the "Company"), and Richard M. Nazareth, M.D., a resident of the State of Florida (the "Shareholder"), to be effective as of September 15, 1997.

### WITNESSETH:

**WHEREAS**, the Company owns certain assets used to operate a cosmetic and reconstructive surgery practice in Florida;

**WHEREAS**, Shareholder is the only shareholder of the Company;

**WHEREAS**, Better Image is engaged in the business of acquiring the assets of and managing cosmetic and reconstructive surgery practices to the extent permitted by applicable law; and

**WHEREAS**, Better Image and the Company entered into a Purchase and Sale Agreement (the "Asset Purchase Agreement"), dated February 25, 1998, under the terms of which Better Image was to acquire certain of the assets of the Company (the "Asset Acquisition"); and

**WHEREAS**, the Boards of Directors of each of the Company and Better Image have determined that a business combination between the parties is in the best interests of their respective companies and shareholders rather than the Asset Acquisition and accordingly have agreed to effect the Merger (as hereinafter defined) upon the terms and conditions set forth herein;

**WHEREAS**, it is intended that for federal income tax purposes the Merger shall qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code").

**NOW THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### SECTION 1. THE MERGER.

The closing of the transactions contemplated hereby (the "Closing") will take place as soon as practicable following the satisfaction or waiver of the conditions to the obligations of the parties to effect the Merger, but in no event shall the Closing be held later than September 30,

1999 (such date of Closing being referred to herein as the "Closing Date"). The place of Closing shall be at such place as the parties may mutually agree.

1.1 **MERGER OF THE COMPANY INTO BETTER IMAGE.** On the Closing Date, the Company shall be merged with and into Better Image in accordance with this Agreement and the separate corporate existence of the Company shall thereupon cease (the "Merger"). The Merger shall be based on the respective representations, warranties and agreements of the parties hereto, and shall be subject to the terms and conditions herein stated. The Merger is intended to be a "tax-free reorganization" pursuant to Section 368(a)(1)(A) of the Code and the parties hereto shall not report the transaction in a manner inconsistent therewith or otherwise take any action that would prevent the Merger from qualifying as such; provided, however, that the actual tax effect of the transactions contemplated by this Agreement is not a condition precedent to the closing of the transactions contemplated hereby and no party hereto makes or has made any representation, warranty or covenant to any other party hereto as to such qualification. Better Image shall be the surviving corporation in the Merger (in such capacity, hereinafter referred to as the "Surviving Corporation") and shall be governed by the laws of the State of Florida, and the separate corporate existence of Surviving Corporation with all its rights, privileges, powers, immunities, purposes and franchises shall continue unaffected by the Merger, except as set forth herein. The Merger shall have the effects specified pursuant to the laws of the State of Florida.

1.2 **MERGER CERTIFICATES.** If all conditions to the Merger set forth herein have been fulfilled or waived in accordance herewith and this Agreement shall not have been terminated pursuant to the terms hereof, the parties hereto shall cause to be properly executed and filed on the Closing Date Articles of Merger meeting the requirements of the laws of the State of Florida. The Merger shall become effective on the Closing Date (such effective date being referred to herein as the "Effective Date").

1.3 **ARTICLES OF INCORPORATION OF SURVIVING CORPORATION.** At the Effective Date, the Articles of Incorporation of Better Image shall be the Articles of Incorporation of the Surviving Corporation.

1.4 **BYLAWS OF THE SURVIVING CORPORATION.** The Bylaws of Better Image on the Closing Date shall be the Bylaws of the Surviving Corporation, unless and until duly amended in accordance with their terms.

1.5 **DIRECTORS OF THE SURVIVING CORPORATION.** The persons who are directors of Better Image immediately prior to the Effective Date shall, from and after the Closing Date, be the directors of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Articles of Incorporation and Bylaws.

1.6 **OFFICERS OF THE SURVIVING CORPORATION.** The persons who are officers of Better Image immediately prior to the Effective Date shall, from and after the

Effective Date, be the officers of the Surviving Corporation and shall hold their same respective office(s) until their earlier death, resignation or removal.

1.7 CONVERSION OF COMPANY COMMON STOCK. The manner of converting shares of the Company in the Merger shall be as follows:

(a) As a result of the Merger and without any action on the part of the holder thereof, all shares of Company common stock issued and outstanding on the Effective Date shall cease to be outstanding and shall be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares of Company common stock shall thereafter cease to have any rights with respect to such shares of Company common stock, except the right, subject to Section 1.8(c), to receive, without interest, the consideration specified in Annex I attached hereto (in the aggregate, the "Merger Consideration").

(b) Each share of Company common stock held in the Company's treasury, if any, on the Closing Date, by virtue of the Merger, shall cease to be outstanding and shall be canceled and retired without payment of any consideration therefor and shall cease to exist.

1.8 EXCHANGE OF CERTIFICATES REPRESENTING SHARES OF COMPANY COMMON STOCK.

(a) On the Closing Date, (i) the Shareholder, as the holder of all outstanding certificates representing shares of Company common stock, shall, upon surrender of such certificates, be entitled to receive the Merger Consideration and (ii) until the certificates representing Company common stock have been surrendered by Shareholder and replaced by certificates representing Better Image common stock, the certificates for Company common stock shall, for all purposes, be deemed to evidence ownership of Better Image common stock in such share amounts as will be issued pursuant to Annex I.

(b) The Shareholder shall deliver to Better Image on the Closing Date the certificates representing Company common stock owned by them, duly endorsed in blank by the Shareholder, or accompanied by blank stock powers, and with all necessary transfer tax and other revenue stamps (if any), acquired at the Shareholder's expense. The Shareholder agrees to cure any deficiencies with respect to the endorsement of the certificates or other documents of conveyance with respect to such Company common stock or with respect to the stock powers accompanying any Company Common Stock. Simultaneous with such delivery on the Closing Date, the Shareholder shall receive in exchange therefor a certificate representing that number of shares of Better Image common stock and the amount of any cash such Shareholder is entitled to receive pursuant to Sections 1.7 and 1.8(c) hereof.

(c) Notwithstanding Section 1.7 or any other provision of this Section 1.8, no fractional shares of Better Image common stock will be issued.

1.9 **SUBSEQUENT ACTIONS.** If, at any time after the Effective Date, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, and to effect the cancellation of all outstanding shares of Company common stock in return for the consideration set forth in this Agreement, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company, and Shareholder or otherwise, to carry out all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of the Company or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

## **SECTION 2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND THE SHAREHOLDER.**

The Company and the Shareholder, jointly and severally, hereby represent and warrant to Better Image that the following statements are current and complete as of the date of this Agreement and will be correct and complete as of the Closing Date and the Effective Date.

2.1 **CORPORATE EXISTENCE; GOOD STANDING.** The Company is duly organized, validly existing and in good standing under the laws of the State of Florida. The Company has all necessary corporate powers to own all of its assets and to carry on its business as such business is now being conducted. The Company does not own stock directly or indirectly, in any other corporation, association or business organization, nor is the Company a party to any joint venture or partnership, other than as set forth on Exhibit 2.1. The Shareholder is the sole shareholder of the Company and owns all outstanding shares of capital stock, free of all security interests, claims, encumbrances and liens, in the amounts set forth on Exhibit 2.1. Each share of Company common stock has been legally and validly issued and is fully paid and nonassessable. No shares of capital stock of the Company are owned by the Company in treasury. There are no outstanding (a) bonds, debentures, notes or other obligations the holders of which have the right to vote with the shareholder of the Company on any matter (except as set forth in Exhibit 2.1), (b) securities of the Company convertible into equity interests in the Company, or (c) commitments, options, rights or warrants to issue any such equity interests in the Company, to issue securities of the Company convertible into such equity interests, or to redeem any securities of the Company. The Company is not required to qualify to do business as a foreign corporation in any other state or jurisdiction by reason of its business, properties or activities in or relating to such other state or jurisdiction. The Company does not have any assets, employees or offices in any state other than Florida.



2.2 POWER AND AUTHORITY FOR TRANSACTIONS. The Company has the corporate power to execute, deliver and perform this Agreement and all agreements and other documents executed and delivered by it pursuant to this Agreement or to be executed and delivered on the Closing Date, and has taken all action required by law, its Articles of Incorporation, its Bylaws or otherwise, to authorize the execution, delivery and performance of this Agreement and such related documents. Shareholder has the legal capacity to enter into and perform this Agreement and the other agreements to be executed and delivered in connection herewith. The Company has obtained (or will obtain as of the Closing Date) the approval of its shareholder(s) necessary to the consummation of the transactions contemplated herein. This Agreement and all agreements and documents executed and delivered in connection herewith have been, or will be as of the Closing Date, duly executed and delivered by the Company and the Shareholder, as appropriate, and constitute or will constitute the legal, valid and binding obligations of the Company and the Shareholder, enforceable against the Company and the Shareholder in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies. The execution and delivery of this Agreement, and the agreements executed and delivered pursuant to this Agreement or to be executed and delivered on the Closing Date, do not, and, subject to the receipt of consents described on Exhibit 2.5, the consummation of the actions contemplated hereby will not, violate any provision of the Articles of Incorporation or Bylaws of the Company or any provisions of, or result in the acceleration of, any obligation under any mortgage, lien, lease, agreement, rent, instrument, order, arbitration award, judgment or decree to which the Company or Shareholder is a party or by which the Company or Shareholder is bound, or violate any material restrictions of any kind to which the Company is subject, or result in any lien or encumbrance on any of the Company's assets.

2.3 PERMITS, LICENSES AND GOVERNMENTAL AUTHORIZATIONS. All building or other permits, certificates of occupancy, concessions, grants, franchises, licenses, certificates of need and other governmental authorizations and approvals required to be maintained by the Company, the Shareholder and each licensed employee of the Company have been duly obtained and are in full force and effect unless such failure to obtain would not have a material adverse effect on the Company. There are no proceedings pending or, to the knowledge of the Company and the Shareholder, threatened, which may result in the revocation, cancellation or suspension, or any adverse modification, of any thereof.

2.4 CORPORATE RECORDS. True and correct copies of the Articles of Incorporation, Bylaws and all amendments thereto of the Company have been delivered to Better Image, and the books of account of the Company have been kept accurately in the ordinary course of business and the revenues, expenses, assets and liabilities of the Company have been properly recorded in such books.

2.5 CONSENTS. Except as set forth on Exhibit 2.5, no consent, authorization, permit, license or filing with any governmental authority, any lender, lessor, any manufacturer or supplier or any other person or entity is required to authorize, or is required in connection with,

the execution, delivery and performance of this Agreement and the agreements and documents contemplated hereby on the part of the Company or the Shareholder.

2.6 THE COMPANY'S FINANCIAL INFORMATION. The Company has heretofore furnished Better Image with copies of financial information ("Financial Statements") about the Company as set forth on Exhibit 2.6 attached hereto, including the unaudited Balance Sheet ("Balance Sheet") as of \_\_\_\_\_ ("Balance Sheet Date"). Such financial statements were prepared in accordance with Generally Accepted Accounting Principles ("GAAP") consistently applied throughout the periods involved, and fairly present the financial condition and results of operations of the Company, as applicable, as of the respective dates thereof and for the respective periods covered thereby, reflect all liabilities of the Company, including all contingent liabilities of the Company, as of their respective dates, and present fairly the financial position of the Company as of such dates and the results of operations and cash flows for the period or periods reflected therein as required in accordance with GAAP; provided, however, that such Financial Statements are subject to post year end adjustments (which will not be material individually or in the aggregate).

2.7 LEASES. Exhibit 2.7 attached hereto sets forth a list of all leases pursuant to which the Company leases, as lessor or lessee, real or personal property used in operating the business of the Company or otherwise. Such leases listed on Exhibit 2.7 are valid and enforceable in accordance with their respective terms unless such validity or unenforceability will have no material negative impact on the Company. There is not, under any such lease, any existing default by the Company, as lessor or lessee, or any condition or event of which the Company or Shareholder has knowledge which with notice or lapse of time, or both, would constitute a default.

2.8 CONDITION OF ASSETS. All of the plants, structures and equipment used by the Company in its business are in good condition and repair subject to normal wear and tear and conform with all applicable ordinances, regulations and other laws, and the Company and the Shareholder have no knowledge of any latent defects therein.

2.9 TITLE TO AND ENCUMBRANCES ON PROPERTY. An inventory list of all interests in personal property and real estate leasehold interests owned by the Company is set forth on Exhibit 2.9 (the "Property"). The Company has good, valid and marketable title to the Property free and clear of any liens, claims, charges, exceptions or encumbrances, except for those, if any, which are set forth in Exhibit 2.9 attached hereto or those which were disposed of in the ordinary course of business prior to the Closing Date. The real estate leasehold interest and personal property described on Exhibit 2.7 and Exhibit 2.9 constitute the only real and personal property used in the conduct of the Company's business, except as otherwise disclosed in Exhibit 2.9.

2.10 INVENTORIES. All inventories of the Company used in the conduct of its business are reflected on the Balance Sheet in accordance with GAAP. The items of the

Company's inventory have been acquired in the ordinary course of its business, are adequate for the reasonable requirements of its business, and may be used for their intended purposes. Except as otherwise noted in the Balance Sheet, substantially all of the inventory owned or used by the Company is in good, current, standard and merchantable condition and is not obsolete or defective.

2.11 INTELLECTUAL PROPERTY RIGHTS; NAMES. Except as set forth on Exhibit 2.11, the Company has no right, title or interest in or to patents, patent rights, corporate names, assumed names, manufacturing processes, trade names, trademarks, service marks, inventions, specialized treatment protocols, copyrights, formulas and trade secrets or similar items and such items are the only such items necessary for the conduct of its business. Set forth in Exhibit 2.11 is a listing of all names of all predecessor companies of the Company, including the names of any entities from whom the Company previously acquired significant assets. Except for off-the-shelf software licenses and except as set forth on Exhibit 2.11, the Company is not a licensee in respect of any patents, trademarks, service marks, trade names, copyrights or applications therefor, or manufacturing processes, formulas or trade secrets or similar items and no such licenses are necessary for the conduct of its business. No claim is or, to the best of Company's or Shareholder's knowledge, is pending to the effect that the present or past operations of the Company infringe upon or conflict with the asserted rights of others to any patents, patent rights, manufacturing processes, trade names, trademarks, service marks, inventions, licenses, specialized treatment protocols, copyrights, formulas, know-how and trade secrets. To the best of Company's and Shareholder's knowledge, the Company has the sole and exclusive right to use all such proprietary rights without infringing or violating the rights of any third parties and no consents of any third parties are required for the use thereof by the Surviving Corporation.

2.12 DIRECTORS AND OFFICERS; PAYROLL INFORMATION; EMPLOYEES. Set forth on Exhibit 2.12 attached hereto is a true and complete list, as of the date of this Agreement of: (a) the name of each director and officer of the Company and the offices held by each, (b) the most recent payroll report of the Company, showing all current employees of the Company and their current levels of compensation, (c) promised increases in compensation of employees of the Company that have not yet been effected, (d) oral or written employment agreements or independent contractor agreements (and all amendments thereto) to which the Company is a party, copies of which have been delivered to Better Image, and (e) all employee manuals, materials, policies, procedures and work-related rules, copies of which have been delivered to Better Image. The Company is in compliance with all applicable laws, rules, regulations and ordinances respecting employment and employment practices. The Company has not engaged in any unfair labor practice. To the best of Company's and Shareholder's knowledge, there are no unfair labor practices charges or complaints pending or threatened against the Company, and the Company has never been a party to any agreement with any union, labor organization or collective bargaining unit.

2.13 LEGAL PROCEEDINGS. Except as set forth on Exhibit 2.13, neither the Company nor any Shareholder nor outstanding shares of the Company's stock nor any of the Company's assets is subject to any pending, nor does the Company or Shareholder have knowledge of any threatened litigation, governmental investigation, condemnation or other proceeding against or relating to or affecting the Company, the Shareholder, the outstanding shares of the Company's stock, any of the assets of the Company, the operations, business or prospects of the Company or the transactions contemplated by this Agreement, and, to the knowledge of the Company and the Shareholder, no basis for any such action exists, nor is there any legal impediment of which the Company or the Shareholder has knowledge to the continued operation of its business in the ordinary course, subject to consents set forth on Exhibit 2.5.

2.14 CONTRACTS. The Company has delivered to Better Image true copies of all written, and disclosed to Better Image, all oral, outstanding contracts, obligations and commitments of the Company, excluding patient contracts (the "Contracts"), all of which are listed or incorporated by reference on Exhibit 2.7 (in the case of leases) and Exhibit 2.14 (in the case of Contracts other than leases) attached hereto. Except as otherwise indicated on such Exhibits, to the best of Company's and Shareholder's knowledge, all of such Contracts are valid, binding and enforceable in accordance with their terms and are in full force and effect, and no defenses, offsets or counterclaims have been asserted or may be made by any party thereto, subject to applicable bankruptcy, insolvency, reorganization or other laws affecting the rights of creditors generally, or to equitable principles. Except as indicated on such Exhibits, there is not, under any such Contract, any existing default by the Company, or any condition or event of which the Company or Shareholder has knowledge which with notice or lapse of time, or both, would constitute a default. The Company and Shareholder have no knowledge of any default by any other party to such Contracts. Neither the Company nor Shareholder have received notice of the intention of any party to any Contract to cancel or terminate any Contract and have no reason to believe that any amendment or change to any Contract is contemplated by any party thereto. Other than those contracts, obligations and commitments of the Company listed on Exhibit 2.7 and Exhibit 2.14 and any patient contracts, to the Shareholder's knowledge, the Company is not a party to any material written or oral agreement, contract, lease or arrangement, including any:

- (a) Contract related to the assets of the Company not made in the ordinary course of business other than this Agreement;
- (b) Employment, consulting or compensation agreement or arrangement;
- (c) Labor or collective bargaining agreement;
- (d) Lease agreement with respect to any property, whether as lessor or lessee;
- (e) Deed, bill of sale or other document evidencing an interest in or agreement to purchase or sell real or personal property;

(f) Contract for the purchase of materials, supplies or equipment (i) which is in excess of the requirements of its business now booked or for normal operating inventories, or (ii) which is not terminable upon notice of thirty (30) days or less;

(g) Agreement for the purchase from a supplier of all or substantially all of the requirements of the Company of a particular product or service;

(h) Loan agreement or other contract for money borrowed or lent or to be borrowed or lent to another;

(i) Contracts containing non-competition covenants; or

(j) Other contracts or agreements that involve either an unperformed commitment in excess of \$1,000 that cannot be performed in the ordinary course of business within thirty (30) days after the date hereof or terminated by the Company without payment of any penalty or other expense.

2.15 SUBSEQUENT EVENTS. Except as disclosed on Exhibit 2.15, the Company has not, since the Balance Sheet Date:

(a) Incurred any material obligation or liability (absolute, accrued, contingent or otherwise) or entered into any contract, lease, license or commitment, except for this Agreement, other than in the ordinary course of business;

(b) Discharged or satisfied any material lien or encumbrance, or paid or satisfied any material obligation or liability (absolute, accrued, contingent or otherwise) other than (i) liabilities shown or reflected on the Balance Sheet or (ii) liabilities incurred since the Balance Sheet Date in the ordinary course of business;

(c) Formed or acquired or disposed of any interest in any corporation, partnership, joint venture or other entity;

(d) Made any payments to or loaned any money to any person or entity other than in the ordinary course of business consistent with past practices;

(e) Lost or terminated any employee, patient, customer or supplier that has, individually or in the aggregate, a material adverse effect on its business;

(f) Increased or established any reserve for taxes or any other liability on its books or otherwise provided therefor;

(g) Mortgaged, pledged or subjected to any lien, charge or other encumbrance any of the assets of the Company, tangible or intangible;

- (h) Sold or contracted to sell or transferred or contracted to transfer any of the assets used in the conduct of the Company's business or canceled any debts or claims or waived any rights, except in the ordinary course of business consistent with past practices;
- (i) Except in the ordinary course of business consistent with past practices, granted any increase in the rates of pay of employees, consultants or agents, or by means of any bonus or pension plan, contract or other commitment, increased the compensation of any officer, employee, consultant or agent;
- (j) Authorized or incurred any capital expenditures in excess of Ten Thousand Dollars (\$10,000);
- (k) Except for this Agreement and any other agreement executed and delivered pursuant to this Agreement, entered into any material transaction other than as permitted hereunder;
- (l) Redeemed, purchased, sold or issued any stock, bonds or other securities to persons other than the Shareholder;
- (m) Experienced damage, destruction or loss (whether or not covered by insurance) materially and adversely affecting any of its properties, assets or business, or experienced any other material adverse change in its financial condition, assets, prospects, liabilities or business;
- (n) Declared or paid a distribution, payment or dividend of any kind on the capital stock of the Company;
- (o) Repurchased, approved any repurchase or agreed to repurchase any of the Company's capital stock; or
- (p) Suffered any material adverse change in the business of the Company or to the assets of the Company.

2.16 ACCOUNTS RECEIVABLE/PAYABLE. The Balance Sheet reflects the amount, as of the Balance Sheet Date, of the Company's (i) accounts receivable, net of allowances for uncollectible and doubtful amounts ("Accounts Receivable"), and (ii) current accounts payable and current accrued liabilities (other than the current portion of long-term debt) ("Accounts Payable"). Exhibit 2.16 contains a true and accurate (i) list of all Accounts Receivable, and (ii) list of all Accounts Payable and (iii) statement of the working capital ("Working Capital") of the Company as of the Balance Sheet Date. Since the Balance Sheet Date, the Company has not changed any principle or practice with respect to the recordation of accounts receivable or the calculation of reserves therefor, or any material collection, discount or

write-off policy or procedure. Accounts Receivable are not recorded in amounts estimated to be net of contractual allowances related to third-party payor arrangements. The Company is in substantial compliance with the terms and conditions of such third-party payor arrangements, and the reserves established by the Company are adequate to cover any liability resulting from lack of compliance.

2.17 TAXES. The Company has filed all tax returns required to be filed by it, and made all payments of taxes, including any interest, penalty or addition thereto, required to be made by it, with respect to income taxes, real and personal property taxes, sales taxes, use taxes, employment taxes, excise taxes and other taxes due and payable on or before the date of this Agreement. To the best of Company's and Shareholder's knowledge, all such tax returns are complete and accurate in all respects and properly reflect the relevant taxes for the periods covered thereby. The Company has no tax liability, except for real and personal property taxes and license fees for the current period not yet due and payable and sales, use, employment and similar taxes for periods as to which such taxes have not yet become due and payable. The unpaid taxes of the Company did not, as of the Balance Sheet Date, exceed the reserve for taxes set forth on the face of the Balance Sheet, as adjusted for the passage of time through the Closing Date, in accordance with the past custom and practice of the Company. The Company and the Shareholder have not received any notice that any tax deficiency or delinquency has been asserted against the Company and there are no audits relating to taxes of the Company threatened, pending or in process. The Company is not currently the beneficiary of any waiver of any statute of limitations in respect of taxes nor of any extension of time within which to file any tax return or to pay any tax assessment or deficiency. There are no liens or encumbrances relating to taxes on, or threatened against any of the assets of the Company. The Company has withheld and paid all taxes required by law to have been withheld and paid by it. Neither the Company nor any predecessor of the Company is or has been a party to any tax allocation or sharing agreement or a member of an affiliated group of corporations filing a consolidated federal income tax return. The Company has delivered to Better Image correct and complete copies of the Company's three most recently filed annual state and federal income tax returns, together with all examination reports and statements of deficiencies assessed against or agreed to by the Company during the three calendar year period preceding the date of this Agreement.

2.18 COMMISSIONS AND FEES. There are no claims for brokerage commissions or finder's or similar fees in connection with the transactions contemplated by this Agreement which may be now or hereafter asserted against Better Image, the Company or the Shareholder resulting from any action taken by the Company or the Shareholder or their respective agents or employees, or any of them.

2.19 LIABILITIES; DEBT. Except to the extent reflected or reserved against on the Balance Sheet or set forth in Exhibit 2.13, the Company did not have, as of the Balance Sheet Date, and has not incurred since that date and will not have incurred as of the Closing Date, any liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due, other than those incurred in the ordinary course of business. The

Company and the Shareholder do not know, or have reasonable grounds to know, of any basis for the assertion against the Company as of the Balance Sheet Date, of any claim or liability of any nature in any amount not fully reflected or reserved against on the Balance Sheet, or of any claim or liability of any nature arising since that date other than those incurred in the ordinary course of business or contemplated by this Agreement. All indebtedness of the Company (including without limitation, indebtedness for borrowed money, guaranties and capital lease obligations) is described on Exhibit 2.19 attached hereto.

2.20 INSURANCE POLICIES. The Company and Shareholder of the Company carries property, liability, malpractice, workers' compensation and such other types of insurance as is customary in the industry. Valid and enforceable policies in such amounts are outstanding and duly in force and will remain duly in force through the Closing Date. All such policies are described in Exhibit 2.20 attached hereto and true and correct copies have been delivered to Better Image. Neither the Company nor Shareholder has received notice or other communication from the issuer of any such insurance policy canceling or amending such policy or threatening to do so. Neither the Company nor Shareholder has any outstanding claims, settlements or premiums owed against any insurance policy.

2.21 EMPLOYEE BENEFIT PLANS. Except as set forth on Exhibit 2.21 attached hereto, the Company has neither established, nor maintains, nor is obligated to make contributions to or under or otherwise participate in, (a) any bonus or other type of compensation or employment plan, program, agreement, policy, commitment, contract or arrangement (whether or not set forth in a written document); (b) any pension, profit-sharing, retirement or other plan, program or arrangement; or (c) any other employee benefit plan, fund or program, including, but not limited to, those described in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). To the best of Company's and Shareholder's knowledge, all such plans listed on Exhibit 2.21 (individually "Company Plan," and collectively "Company Plans") have been operated and administered in all material respects in accordance with all applicable laws, rules and regulations, including without limitation, ERISA, the Internal Revenue Code of 1986, as amended, Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1967, as amended, the Age Discrimination in Employment Act of 1967, as amended, and the related rules and regulations adopted by those federal agencies responsible for the administration of such laws. The Company has not previously made, is not currently making, and is not obligated in any way to make, any contributions to any multi-employer plan within the meaning of the Multi-Employer Pension Plan Amendments Act of 1980. With respect to each Company Plan, either (i) the value of plan assets (including commitments under insurance contracts) is at least equal to the value of plan liabilities or (ii) the value of plan liabilities in excess of plan assets is disclosed on the Balance Sheet, all as of the Closing Date.

2.22 ADVERSE AGREEMENTS. The Company is not, and will not be as of the Closing Date, a party to any agreement or instrument or subject to any charter or other corporate restriction or any judgment, order, writ, injunction, decree, rule or regulation that materially and adversely affects the condition (financial or otherwise), operations, assets, liabilities, business or



prospects of the Company; provided, however, that the Company and the Shareholder will remain in compliance with all requirements under the Company's existing managed care contracts and any physicians employed by the Company will remain in compliance with all requirements governing the practice of medicine.

2.23 COMPLIANCE WITH LAWS IN GENERAL. The Company, the Shareholder and Company's licensed employees have complied with all applicable laws, rules, regulations and licensing requirements, including, without limitation, the Federal Environmental Protection Act, the Occupational Safety and Health Act, the Americans with Disabilities Act and any environmental laws and medical waste laws, and there exist no violations by the Company, the Shareholder or any licensed employee of the Company of any federal, state or local law or regulation unless the failure to do so would have no material negative impact upon the Company. Neither the Company nor Shareholder has received any notice of a violation of any federal, state and local laws, regulations and ordinances relating to the operations of the business and assets of the Company and no notice of any pending inspection or violation of any such law, regulation or ordinance has been received by the Company or Shareholder unless such notice or violation would have no material negative impact upon the Company.

2.24 MEDICARE AND MEDICAID PROGRAMS. The Company, Shareholder and each licensed employee of the Company is qualified for participation in the Medicare and Medicaid programs and is party to provider agreements for such programs which are in full force and effect with no defaults having occurred thereunder. The Company, Shareholder and each licensed employee of the Company has timely filed all claims or other reports required to be filed with respect to the purchase of services by third-party payors, and all such claims or reports are complete and accurate, and has no liability to any payor with respect thereto. To the best of Company's and Shareholder's knowledge, there are no pending appeals, overpayment determinations, adjustments, challenges, audit, litigation or notices of intent to open Medicare or Medicaid claim determinations or other reports required to be filed by the Company, Shareholder and each licensed employee of the Company. Neither the Company, nor Shareholder, nor to the best of Company's and Shareholder's knowledge, any licensed employee of the Company has been convicted of, or pled guilty or nolo contendere to, patient abuse or negligence, or any other Medicare or Medicaid program related offense and none has committed any offense which may serve as the basis for suspension or exclusion from the Medicare and Medicaid programs.

2.25 FRAUD AND ABUSE. The Company, the Shareholder and all persons and entities providing professional services for the Company's business have not, to the knowledge of the Company and the Shareholder, engaged in any activities which are prohibited under §1320a-7b or §1395nn of Title 42 of the United States Code or the regulations promulgated thereunder, or related state or local statutes or regulations, or which are prohibited by rules of professional conduct, including, but not limited to, the following: (a) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment; (b) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or

payment; (c) any failure by a claimant to disclose knowledge of the occurrence of any event affecting the initial or continued right to any benefit or payment on its own behalf or on behalf of another, with the intent to fraudulently secure such benefit or payment; and (d) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe or rebate) directly or indirectly, overtly or covertly, in cash or in kind, or offering to pay or receive such remuneration (i) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or (ii) in return for purchasing, leasing or ordering or arranging for, or recommending, purchasing, leasing or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid, or (e) referring a patient for designated health services to or providing designated health services to a patient upon referral from an entity or person with which the cosmetic and reconstructive surgeon or an immediate family member has a financial relationship, and to which no exception under §1395nn of Title 42 of the United States Code applies.

2.26 NO UNTRUE REPRESENTATIONS. No representation or warranty by the Company or Shareholder in this Agreement, and no Exhibit or certificate issued or executed by, or information furnished by, officers or directors of the Company or Shareholder and furnished or to be furnished to Better Image pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

2.27 DISTRIBUTIONS AND REPURCHASES. No distribution, payment or dividend of any kind has been declared or paid by the Company on any of its capital stock since the Balance Sheet Date. No repurchase of any of the Company's capital stock has been approved, effected or is pending, or is contemplated by the Board of Directors of the Company.

2.28 OWNERSHIP INTERESTS OF INTERESTED PERSONS; COMPETITORS. To the best of Company's and Shareholder's knowledge, no officer, employee, director or shareholder of the Company, or their respective spouses, children or affiliates, owns directly or indirectly, on an individual or joint basis, any interest in, has a compensation or other financial arrangement with, or serves as an officer or director of, any customer or supplier or competitor of the Company or any organization that has a material contract or arrangement with the Company. To the best of Company's and Shareholder's knowledge, neither the Company, nor any of its directors, officers, employees, consultants or the Shareholder nor any affiliate of such person is, or within the last three (3) years was, a party to any contract, lease, agreement or arrangement, including, but not limited to, any joint venture or consulting agreement with any cosmetic and reconstructive surgeon, physician, hospital, pharmacy, or other person or entity which is in a position to make or influence referrals to, or otherwise generate business for, the Company or to provide services, lease space, lease equipment or engage in any other venture or activity with the Company.

2.29 PAYORS. Exhibit 2.29 sets forth a true, complete and correct list of the names and addresses of each payor of the Company's services which accounted for more than ten percent (10%) of revenues of the Company in the preceding fiscal year. To the best of Company's and Shareholder's knowledge, the Company has good relations with all such payors and other material payors of the Company and none of such payors has notified the Company that it intends to discontinue its relationship with the Company or to deny any claims submitted to such payor for payment.

### **SECTION 3. REPRESENTATIONS AND WARRANTIES OF BETTER IMAGE.**

Better Image hereby represents and warrants to the Company and the Shareholder that the following statements are current and complete as of the date of this Agreement and will be correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement, except as set forth in the disclosure Exhibits accompanying this Section 3) and the Effective Date.

3.1 CORPORATE EXISTENCE; GOOD STANDING. Better Image is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida. Better Image is, or will be at Closing, duly qualified to do business and is in good standing in the states where its ownership or leasing of property or the conduct of its business requires it to be so qualified and in which the failure to be duly qualified would have a material adverse effect upon Better Image, and has the corporate power and authority to carry on its business as now conducted and to own, lease and operate its assets, properties and business. Better Image has in effect all federal, state, local and foreign governmental authorizations necessary for it to own or lease its properties and assets and to carry on its business as it is now being conducted, the absence of which, either individual or in the aggregate, would have a material adverse effect on the business, operations, or financial condition of Better Image.

3.2 CONSENTS, POWER AND AUTHORITY. Better Image has corporate power to execute, deliver and perform this Agreement and all agreements and other documents executed and delivered by it pursuant to this Agreement, and has taken all actions required by law, its Certificate and Articles of Incorporation, its Bylaws or otherwise, to authorize the execution, delivery and performance of this Agreement and such related documents. This Agreement and all agreements and documents executed and delivered in connection herewith have been, or will be as of the Closing Date, duly executed and delivered by Better Image as appropriate, and constitute or will constitute the legal, valid and binding obligations of Better Image enforceable against Better Image in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies. The execution and delivery of this Agreement and the agreements related hereto executed and delivered pursuant to this Agreement do not and the consummation of the transactions contemplated hereby will not violate, any provision of the Certificate of Incorporation or Bylaws of Better Image or any provisions of, or result in the

acceleration of, any obligation under any mortgage, lien, lease, agreement, instrument, order, arbitration, award, judgment or decree to which Better Image is a party or by which it is bound.

3.3 CAPITAL STOCK. The issuance and delivery by Better Image of shares of the common stock of Better Image in connection with the Merger will be, as of the Closing Date, duly authorized by all necessary corporate action on the part of Better Image. The shares of Better Image common stock to be issued in connection with the Merger, when issued in accordance with the terms of this Agreement, will be validly issued, fully paid and nonassessable.

3.4 LEGAL PROCEEDINGS. There is no claim, legal action, counterclaim, suit, arbitration, governmental investigation or other legal, administrative or tax proceeding, nor any order, decree or judgment, in progress, pending, or threatened against or relating to Better Image or the business or operations of Better Image, nor does Better Image know or have reason to be aware of any basis for the same.

3.5 ACCURACY OF INFORMATION. No representations, warranties or covenants of Better Image or the members, officers or directors of Better Image, nor any statement, list or certificate furnished or to be furnished to the Company and the Shareholder pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any material untrue statement of fact or omits or will omit to state a material fact necessary to make the statements contained therein not misleading in light of the circumstances under which they were made.

3.6 NO VIOLATION. The execution, delivery and performance by Better Image of this Agreement or any agreements required hereby to be executed by Better Image will not, to the best of Better Image's knowledge, constitute a violation of any statute, ordinance, judgment, order, decree, regulation or rule of any court, governmental authority or arbitrator or any license, permit or franchise applicable or relating to the Center.

#### **SECTION 4. COVENANTS OF THE COMPANY AND THE SHAREHOLDER.**

The Company and the Shareholder, jointly and severally, agree that between the date hereof and the Closing Date:

4.1 CONSUMMATION OF AGREEMENT. The Company and the Shareholder shall use their best efforts to cause the consummation of the transactions contemplated hereby in accordance with their terms and conditions.

4.2 BUSINESS OPERATIONS. Except as specifically contemplated by this Agreement, the Company and the Shareholder shall operate the Company's business in the ordinary course. The Company shall not enter into any lease, contract, indebtedness,

commitment, purchase or sale or acquire or dispose of any capital asset except in the ordinary course of business. The Company and the Shareholder shall use their best efforts to preserve the business and assets of the Company intact and shall not take any action that would have an adverse effect on the business or assets of the Company, including without limitation, any action the primary purpose or effect of which is to generate or preserve cash; provided that the Company may continue to operate in the ordinary course of business. The Company and the Shareholder shall use their best efforts to preserve intact the relationships with payors, customers, suppliers, patients and others having significant business relations with the Company. The Company shall collect its receivables and pay its trade payables in the ordinary course of business. The Company shall not introduce any new method of management, operations or accounting. On the Closing Date, the Company shall not be engaged in the practice of cosmetic and reconstructive surgery and shall not provide cosmetic and reconstructive services.

4.3 ACCESS AND NOTICE. The Company and the Shareholder shall permit Better Image and its authorized representatives reasonable access to, and make available for reasonable inspection, all of the assets and business of the Company and all of its assets, including employees, customers and suppliers and permit Better Image and its authorized representatives to inspect and make copies of all documents, records and information with respect to the business or assets of the Company as Better Image or its representatives may request. The Company and the Shareholder shall promptly notify Better Image in writing of (a) any notice or communication relating to a default or event that, with notice or lapse of time or both, could become a default, under any contract, commitment or obligation to which the Company is a party, and (b) any material adverse change in the Company's business, financial condition or the conditions of its assets.

4.4 APPROVALS OF THIRD PARTIES AND PERMITS AND CONSENTS. The Company and the Shareholder shall use their best efforts to secure all necessary approvals and consents of third parties to the consummation of the transactions contemplated hereby, including consents described on Exhibit 2.5.

4.5 ACQUISITION PROPOSAL. The Company and the Shareholder shall not, and shall use their best efforts to cause the Company's employees, agents and representatives not to, initiate, solicit or encourage, directly or indirectly, any inquiries or the making or implementation of any proposal or offer, including, without limitation, any proposal or offer to the Shareholder, with respect to a merger, acquisition, consolidation or similar transaction involving, or the purchase of all or any significant portion of the assets or any equity securities of the Company or engage in any negotiations concerning, or provide any confidential information or data to, or have any discussions with, any person relating to such proposal or offer, and the Company and the Shareholder will immediately cease any such activities, discussions or negotiations heretofore conducted with respect to any of the foregoing.

4.6 FUNDING OF ACCRUED EMPLOYEE BENEFITS. The Company hereby covenants and agrees that it will take whatever steps are necessary to pay or fund completely for

any accrued benefits, where applicable, or vested accrued benefits for which the Company or any entity might have liability arising from any salary, wage, benefit, bonus, vacation pay, sick leave, insurance, employment tax or similar liability of the Company to any employee or other person or entity (including, without limitation, any Company Plan and any liability under employment contracts with the Company) allocable to services performed prior to the Closing Date.

4.7 EMPLOYEE MATTERS. The Company shall not, without the prior written approval of Better Image, which approval shall not be unreasonably withheld, except as required by law, increase the cash compensation of the Shareholder or other employee or independent contractor of the Company, adopt, amend or terminate any compensation plan, employment agreement, independent contractor agreement, employee policies and procedures or employee benefit plan, take any action that could deplete the assets of any employee benefit plan, or fail to pay any premium or contribution due or file any report with respect to any employee benefit plan, or take any other actions with respect to its employees or employment matters which might have an adverse effect upon the Company, its business, assets or prospects.

4.8 DISTRIBUTIONS AND REPURCHASES. No distribution, payment or dividend of any kind will be declared or paid by the Company, nor will any repurchase of any of the Company's capital stock be approved or effected.

4.9 REQUIREMENTS TO EFFECT MERGER. The Company and Shareholder shall use their best efforts to take, or cause to be taken, all actions necessary to effect the Merger under applicable law, including, without limitation, the filing with the appropriate government officials of all necessary documents in form approved by counsel for the parties to this Agreement.

4.10 ACCOUNTING AND TAX MATTERS. The Company will not change in any material respect the accounting methods or practices followed by the Company (including any material change in any assumption underlying, or any method of calculating, any bad debt, contingency or other reserve), except as may be required by generally accepted accounting principles. The Company will duly, accurately and timely (with regard to any extensions of time) file all returns, information statements and other documents relating to taxes of the Company required to be filed by it, and pay all taxes required to be paid by it, on or before the Closing Date.

4.11 CONVERSION TRANSACTION. Prior to the Merger, the Shareholder and the Company shall file with the Secretary of State of Florida an amendment to and/or a restatement of the Company's Articles of Incorporation and shall take such other action as may be necessary to convert itself into a general business corporation in accordance with all applicable laws, rules and regulations. Shareholder shall form a new professional entity (the "New Corporation") on or before Closing under which it shall conduct its cosmetic and reconstructive surgery practice and which new entity shall own any assets of the cosmetic and reconstructive surgery practice required by applicable law to be owned by the cosmetic and reconstructive surgery practice.

## **SECTION 5. COVENANTS OF BETTER IMAGE.**

Better Image agrees that between the date hereof and the Closing Date:

5.1 **CONSUMMATION OF AGREEMENT.** Better Image shall use its best efforts to cause the consummation of the transactions contemplated hereby in accordance with their terms and provisions. Better Image will use its best efforts to take, or cause to be taken, all actions necessary to effect the Merger under applicable law, including, without limitation, the filing with the appropriate government officials of all necessary documents in form approved by counsel for the parties to this Agreement.

5.2 **APPROVALS OF THIRD PARTIES AND PERMITS AND CONSENTS.** Better Image shall use its best efforts to secure all necessary approvals and consents of third parties to the consummation of the transactions contemplated hereby.

## **SECTION 6. BETTER IMAGE CONDITIONS PRECEDENT.**

The obligations of Better Image hereunder are subject to the fulfillment at or prior to the Closing Date of each of the following conditions:

6.1 **REPRESENTATIONS AND WARRANTIES.** The representations and warranties of the Company and the Shareholder contained herein shall have been true and correct in all respects when initially made and shall be true and correct in all respects as of the Closing Date.

6.2 **COVENANTS AND CONDITIONS.** The Company and the Shareholder shall have performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by the Company and the Shareholder prior to the Closing Date.

6.3 **PROCEEDINGS.** No action, proceeding or order by any court or governmental body shall have been threatened orally or in writing, asserted, instituted or entered to restrain or prohibit the carrying out of the transactions contemplated hereby.

6.4 **NO MATERIAL ADVERSE CHANGE.** No material adverse change in the condition (financial or otherwise), operations, assets, liabilities, business or prospects of the Company shall have occurred since the Balance Sheet Date.

6.5 **DUE DILIGENCE REVIEW.** By September 30, 1999, Better Image shall have completed a due diligence review of the business, operations and financial statements of the Company, the results of which shall be satisfactory to Better Image in its sole discretion.

6.6 APPROVAL BY THE BOARD OF DIRECTORS. This Agreement and the transactions contemplated hereby shall have been approved by the Board of Directors of Better Image or a committee thereof.

6.7 SERVICE AGREEMENT. On or before the Closing Date, the New Corporation shall execute and deliver to Better Image a Service Agreement (the "Service Agreement"), in substantially the form attached hereto as Exhibit 6.7, pursuant to which Better Image will provide management services to the New Corporation.

6.8 EMPLOYMENT ARRANGEMENTS. Prior to the Closing Date, the Company will terminate, and will cause each licensed employee that has a written existing employment agreement with the Company to terminate his or her employment agreement with the Company, and execute a separation and release agreement ("Separation and Release Agreement"). Shareholder will execute an employment agreement (the "Employment Agreements") with the New Corporation, each in form and substance attached hereto as Exhibit 6.8.

6.9 CONSENTS AND APPROVALS. The Company and the Shareholder shall have obtained all necessary government and other third-party approvals and consents.

6.10 CLOSING DELIVERIES. Better Image shall have received all documents, duly executed in form satisfactory to Better Image and its counsel, referred to in Section 8.1.

6.11 DEBT AND RECEIVABLES. There shall be no indebtedness, receivables or payables between the Company and its Shareholder or affiliates and the Company shall not have any liabilities, including indebtedness, guaranties and capital leases that are not approved by Better Image.

6.12 DISSENTING SHARES. No holder of the Company's common stock shall have demanded appraisal for the shares of Company common stock held by such holder in accordance with Florida law.

6.13 PUBLIC OFFERING OR FIRM UNDERWRITING. Better Image shall have completed on or before September 30, 1999, an initial public offering (the "IPO") for the sale of at least \$20,000,000 of the common stock of Better Image.

6.14 NO CHANGE IN WORKING CAPITAL. There shall have been no material change in the Working Capital of the Company.

6.15 LEGISLATIVE AND LEGAL DEVELOPMENTS. No legislation, regulations, or other legal developments have occurred or been instituted that would have a material adverse effect, or present a material risk of an adverse effect, regarding the contemplated transactions.



**SECTION 7. THE COMPANY'S AND THE SHAREHOLDER'S CONDITIONS PRECEDENT.**

The obligations of the Company and the Shareholder hereunder are subject to fulfillment at or prior to the Closing Date of each of the following conditions:

7.1 REPRESENTATIONS AND WARRANTIES. The representations and warranties of Better Image contained herein shall have been true and correct in all respects when initially made and shall be true and correct in all respects as of the Closing Date.

7.2 COVENANTS AND CONDITIONS. Better Image shall have performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by Better Image prior to the Closing Date.

7.3 PROCEEDINGS. No action, proceeding or order by any court or governmental body shall have been threatened orally or in writing, asserted, instituted or entered to restrain or prohibit the carrying out of the transactions contemplated hereby.

7.4 CLOSING DELIVERIES. The Company shall have received all documents, duly executed in form satisfactory to the Company and its counsel, referred to in Section 8.2.

7.5 INITIAL PUBLIC OFFERING. Better Image shall have completed the IPO for the sale of at least \$20,000,000 of common stock of Better Image on or before September 30, 1999.

7.6 LEGISLATIVE AND LEGAL DEVELOPMENTS. No legislation, regulations, or other legal developments have occurred or been instituted that would have a material adverse effect, or present a material risk of an adverse effect, regarding the contemplated transactions.

7.7 MATERIAL ADVERSE CHANGE. No material adverse change to the business, finances, plans or prospects of Better Image shall have occurred prior to the contemplated transactions.

**SECTION 8. CLOSING DELIVERIES.**

8.1 DELIVERIES OF THE COMPANY AND THE SHAREHOLDER. At or prior to the Closing, the Company and the Shareholder shall deliver to Better Image the following, all of which shall be in a form satisfactory to counsel to Better Image:

(a) an executed original Service Agreement and executed originals of all documents required by that agreement;

(b) executed original Separation and Release Agreements;

(c) a copy of the resolutions of the Board of Directors of the Company authorizing the execution, delivery and performance of this Agreement and all related documents and agreements each certified by the Secretary as being true and correct copies of the original thereof;

(d) a copy of the resolutions of the New Corporation authorizing the execution, delivery and performance of the Service Agreement and all Employment Agreements, each certified by the authorized representative of the New Corporation as being true and correct copies of the original thereof;

(e) certificates of the President of the Company and of Shareholder, dated as of the Closing Date, (i) as to the truth and correctness of the representations and warranties of the Company and Shareholder contained herein; (ii) as to the performance of and compliance by the Company and Shareholder with all covenants contained herein; and (iii) certifying that all conditions precedent of the Company and Shareholder to the Closing have been satisfied;

(f) a certificate of the Secretary of the Company certifying as to the incumbency of the directors and officers of the Company and as to the signatures of such directors and officers who have executed documents delivered at the Closing on behalf of the Company;

(g) if applicable, a certificate of the Secretary of the New Corporation certifying as to the incumbency of the directors and officers of the New Corporation and as to the signatures of such directors and officers who have executed documents delivered at the Closing on behalf of the New Corporation;

(h) a certificate, dated within 10 days of the Closing Date, of the Secretary of the State of Florida establishing that the Company is in existence and is in good standing to transact business in its state of incorporation;

(i) non-foreign affidavits executed by the Company and Shareholder;

(j) all authorizations, consents, approvals, permits and licenses referred to in Sections 2.3 and 2.5;

(k) the resignations of the directors and officers of the Company as requested by Better Image;

(l) a Shareholder Release in form attached hereto as Exhibit 8.1(l) executed by Shareholder;

(m) such other instruments and documents as reasonably requested by Better Image to carry out and effect the purpose and intent of this Agreement; and

(n) a Receipt of Better Image Stock in form attached hereto as Exhibit 8.1(n).

8.2 DELIVERIES OF BETTER IMAGE. At or prior to the Closing, Better Image shall deliver to the Company the following, all of which shall be in a form satisfactory to counsel to the Company and the Shareholder, as applicable:

(a) the Merger Consideration;

(b) an executed Service Agreement;

(c) a copy of the resolutions of the Board of Directors of Better Image (or a committee thereof) authorizing the execution, delivery and performance of this Agreement and all related documents and agreements each certified by the Secretary as being true and correct copies of the original thereof;

(d) certificates of the President of Better Image, dated as of the Closing Date, (i) as to the truth and correctness of the representations and warranties of Better Image contained herein; (ii) as to the performance of and compliance by Better Image with all covenants contained herein; and (iii) certifying that all conditions precedent of Better Image to the Closing have been satisfied;

(e) a certificate of the Secretary of Better Image certifying as to the incumbency of the directors and officers of Better Image and as to the signatures of such directors and officers who have executed documents delivered at the Closing on behalf of Better Image;

(f) certificates, dated within 10 days of the Closing Date, of the Secretary of the State of Florida establishing that Better Image is in existence and is in good standing; and

(g) such other instruments and documents as reasonably requested by the Company or Shareholder to carry out and effect the purpose and intent of this Agreement.

## **SECTION 9. NATURE AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION.**

9.1 NATURE AND SURVIVAL. Unless a party had knowledge of any misrepresentation or breach of warranty as of the Closing Date of the other party, all statements contained in this Agreement or in any Exhibit attached hereto, any agreement executed pursuant hereto, and any certificate executed and delivered by any party pursuant to the terms of this Agreement, shall constitute representations and warranties of the Company and the Shareholder,

jointly and severally, or of Better Image, as the case may be. All such representations and warranties, and all representations and warranties expressly labeled as such in this Agreement shall survive the date of this Agreement and for a period of one (1) year following the Closing Date. Each party covenants with the other parties not to make any claim with respect to such representations and warranties, against any party after the date on which such survival period shall terminate. After the Closing Date, with respect to all breaches of warranties and representations herein, each party's sole remedy with respect to a breach of a warranty and representation shall be indemnification pursuant to this Section 9.

9.2 INDEMNIFICATION BY BETTER IMAGE. BETTER IMAGE (FOR PURPOSES OF THIS SECTION 9.2 AND, TO THE EXTENT APPLICABLE, SECTION 9.4, "INDEMNITOR"), SHALL INDEMNIFY AND HOLD THE SHAREHOLDER, AND HIS RESPECTIVE AGENTS AND EMPLOYEES (EACH OF THE FOREGOING, INCLUDING THE COMPANY AND THE SHAREHOLDER, FOR PURPOSES OF THIS SECTION 9.2 AND, TO THE EXTENT APPLICABLE, SECTION 9.4, BEING REFERRED TO AS "INDEMNIFIED PERSON"), HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES, ACTIONS, SUITS, COSTS, DEFICIENCIES AND EXPENSES (INCLUDING, BUT NOT LIMITED TO, REASONABLE FEES AND DISBURSEMENTS OF COUNSEL THROUGH APPEAL) ARISING FROM OR BY REASON OF OR RESULTING FROM ANY BREACH BY INDEMNITOR OF ANY REPRESENTATION, WARRANTY, AGREEMENT OR COVENANT CONTAINED IN THIS AGREEMENT (INCLUDING THE EXHIBITS HERETO) AND EACH DOCUMENT, CERTIFICATE OR OTHER INSTRUMENT FURNISHED OR TO BE FURNISHED BY INDEMNITOR HEREUNDER. IN CONNECTION WITH INDEMNITOR'S OBLIGATION TO INDEMNIFY FOR EXPENSES, INDEMNITOR SHALL REIMBURSE EACH INDEMNIFIED PERSON FOR ALL SUCH EXPENSES AS THEY ARE INCURRED BY SUCH INDEMNIFIED PERSON, PROVIDED THAT SUCH INDEMNIFIED PERSON HEREBY AGREES IN WRITING TO REFUND ALL SUCH REIMBURSED EXPENSES IF AND TO THE EXTENT THAT IT IS FINALLY JUDICIALLY DETERMINED THAT SUCH INDEMNIFIED PERSON IS NOT ENTITLED TO INDEMNIFICATION HEREUNDER.

9.3 INDEMNIFICATION BY THE COMPANY AND THE SHAREHOLDER. THE COMPANY AND THE SHAREHOLDER (FOR PURPOSES OF THIS SECTION 9.3 AND, TO THE EXTENT APPLICABLE, SECTION 9.4, "INDEMNITOR"), JOINTLY AND SEVERALLY, SHALL INDEMNIFY AND HOLD BETTER IMAGE AND ITS RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDER, AGENTS AND EMPLOYEES (EACH OF THE FOREGOING, INCLUDING BETTER IMAGE, FOR PURPOSES OF THIS SECTION 9.3 AND, TO THE EXTENT APPLICABLE, SECTION 9.4, BEING REFERRED TO AS "INDEMNIFIED PERSON") HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DAMAGES, ACTIONS, SUITS, COSTS, DEFICIENCIES AND EXPENSES (INCLUDING, BUT NOT LIMITED TO, REASONABLE FEES AND DISBURSEMENTS OF COUNSEL THROUGH APPEAL) ARISING FROM OR BY REASON OF OR RESULTING FROM ANY BREACH BY INDEMNITOR OF ANY

REPRESENTATION, WARRANTY, AGREEMENT OR COVENANT CONTAINED IN THIS AGREEMENT (INCLUDING THE EXHIBITS HERETO) AND EACH DOCUMENT, CERTIFICATE, OR OTHER INSTRUMENT FURNISHED OR TO BE FURNISHED BY INDEMNITOR HEREUNDER, AND, WITH RESPECT TO ALL TIMES PRIOR TO THE CLOSING DATE, ARISING FROM OR BY REASON OF OR RESULTING FROM THE INDEMNITOR'S MANAGEMENT AND CONDUCT OF THE OWNERSHIP OR OPERATION OF THE COMPANY AND FROM ANY ALLEGED ACT OR NEGLIGENCE OF INDEMNITOR OR ITS EMPLOYEES, AGENTS AND INDEPENDENT CONTRACTORS IN OR ABOUT THE COMPANY'S BUSINESS, AND WITH RESPECT TO (i) ANY VIOLATION BY THE COMPANY OR THE SHAREHOLDER OR THEIR CONSULTANTS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND AFFILIATES OF STATE OR FEDERAL LAWS GOVERNING HEALTHCARE FRAUD AND ABUSE, OR ANY OVERPAYMENT OR OBLIGATION ARISING OUT OF OR RESULTING FROM CLAIMS SUBMITTED TO ANY THIRD PARTY PAYOR, WHETHER ON OR AFTER THE CLOSING DATE, (ii) TAXES OF THE COMPANY OR ANY OTHER PERSON (INCLUDING ANY SHAREHOLDER) ARISING FROM OR AS A RESULT OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, (iii) ANY LIABILITY OF THE COMPANY OR THE SHAREHOLDER FOR COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) INCURRED IN CONNECTION WITH THE NEGOTIATION, PREPARATION OR CLOSING OF TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER DOCUMENTS TO BE EXECUTED IN CONNECTION HEREWITH, (iv) ANY ACCRUED UNFUNDED RETIREMENT OR PENSION PLAN LIABILITIES, (v) ANY CLAIM AGAINST OR LIABILITY OF THE COMPANY THAT IS OF A NATURE THAT, IF KNOWN AT THE CLOSING WOULD HAVE BEEN REQUIRED TO HAVE BEEN DISCLOSED PURSUANT TO THIS AGREEMENT, AND (vi) ANY LIABILITIES THAT ARE PAST DUE AS OF THE CLOSING DATE, THAT ARE NOT REFLECTED ON THE BALANCE SHEET, THAT ARE NOT INCURRED IN THE ORDINARY COURSE OF BUSINESS AND THAT ARE OTHERWISE EXCLUDED PURSUANT TO THE TERMS OF THIS AGREEMENT. IN CONNECTION WITH INDEMNITOR'S OBLIGATION TO INDEMNIFY FOR EXPENSES, INDEMNITOR SHALL REIMBURSE EACH INDEMNIFIED PERSON FOR ALL SUCH EXPENSES AS THEY ARE INCURRED BY SUCH INDEMNIFIED PERSON, PROVIDED THAT SUCH INDEMNIFIED PERSON HEREBY AGREES IN WRITING TO REFUND ALL SUCH REIMBURSED EXPENSES IF AND TO THE EXTENT THAT IT IS FINALLY JUDICIALLY DETERMINED THAT SUCH INDEMNIFIED PERSON IS NOT ENTITLED TO INDEMNIFICATION HEREUNDER.

9.4 INDEMNIFICATION PROCEDURE. Within sixty (60) days after Indemnified Person receives written notice of the commencement of any action or other proceeding in respect of which indemnification or reimbursement may be sought hereunder, or within such lesser time as may be provided by law for the defense of such action or proceeding, such Indemnified Person shall notify Indemnitor thereof. If any such action or other proceeding shall be brought against any Indemnified Person, Indemnitor shall, upon written notice given within a reasonable time

following receipt by Indemnitor of such notice from Indemnified Person, be entitled to assume the defense of such action or proceeding with counsel chosen by Indemnitor and reasonably satisfactory to Indemnified Person; provided, however, that any Indemnified Person may, at its own expense, retain separate counsel to participate in such defense. Notwithstanding the foregoing, Indemnified Person shall have the right to employ separate counsel at Indemnitor's expense and to control its own defense of such action or proceeding if, in the reasonable opinion of counsel to such Indemnified Person, (a) there are or may be legal defenses available to such Indemnified Person or to other Indemnified Persons that are different from or additional to those available to Indemnitor and which could not be adequately advanced by counsel chosen by Indemnitor, or (b) a conflict or potential conflict exists between Indemnitor and such Indemnified Person that would make such separate representation advisable; provided, however, that in no event shall Indemnitor be required to pay fees and expenses hereunder for more than one firm of attorneys of Indemnified Person in any jurisdiction in any one action or proceeding or group of related actions or proceedings. Indemnitor shall not, without the prior written consent of any Indemnified Person, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding to which such Indemnified Person is a party unless such settlement, compromise or consent includes an unconditional release of such Indemnified Person from all liability arising or potentially arising from or by reason of such claim, action or proceeding.

#### 9.5 CERTAIN TAX MATTERS.

(a) Shareholder shall prepare and file or cause to be prepared and filed any tax returns, statements and reports ("Tax Returns") of the Company covering taxable periods ending on or before the Closing Date which have not been filed on or before the Closing Date. Shareholder shall, jointly and severally, reimburse, indemnify and hold harmless Better Image for all taxes, and all related interest, penalties and additions to tax with respect to taxable periods of the Company ending on or before the Closing Date.

(b) Better Image shall prepare and file or cause to be prepared and filed any Tax Returns of Surviving Corporation covering taxable periods which begin before the Closing Date and end after the Closing Date ("Straddle Periods") taking into account any reasonable reportable positions advocated and requested by Shareholder for such Straddle Periods. Shareholder shall, jointly and severally, within fifteen (15) days after payment thereof and notice of such payment, reimburse, indemnify and hold harmless Better Image and the Surviving Corporation for all Taxes for any Straddle Period, to the extent related to the portion of the Straddle Period ending on the Closing Date. For such purposes, the portion of any tax attributable to the portions of a Straddle Period ending on the Closing Date and beginning after the Closing Date shall be determined by apportioning the tax for the entire Straddle Period among such periods based on the number of days in each such period, provided that, in the case of taxes based upon or related to income or receipts, such portion shall be the amount of tax which would have been due if the relevant Straddle Period ended on the Closing Date.

(c) The Company, Shareholder and Better Image shall reasonably cooperate with each other in connection with the reporting and filing of Tax Returns pursuant to this Section 9.5 and any audit, litigation or other proceeding with respect to taxes. Such cooperation shall include the provision of copies, at the requesting party's expense, of records and information relevant to any such Tax Return or proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

9.6 RIGHT OF SET-OFF. In the event of any breach of warranty, representation, covenant or agreement by the Company or the Shareholder giving rise to indemnification under Section 9.3 or Section 9.5 hereof, Better Image shall be entitled to offset the amount of damages incurred by it as a result of such breach of warranty, representation, covenant or agreement against any amounts payable by Better Image to the Shareholder or their affiliates.

#### SECTION 10. TERMINATION.

This Agreement may be terminated:

- (a) at any time by mutual agreement of all parties;
- (b) at any time by Better Image if at any time prior to the Closing Date any representation or warranty of the Company or the Shareholder contained in this Agreement or in any certificate or other document executed and delivered by the Company or the Shareholder pursuant to this Agreement is or becomes untrue or breached in any material respect or if the Company or the Shareholder fails to comply in any material respect with any covenant or agreement contained herein, and any such misrepresentation, noncompliance or breach is not cured, waived or eliminated within twenty (20) days after receipt of written notice thereof;
- (c) at any time by the Company or the Shareholder if at any time prior to the Closing Date any representation or warranty of Better Image contained in this Agreement or in any certificate or other document executed and delivered by Better Image pursuant to this Agreement is or becomes untrue in any material respect or Better Image fails to comply in any material respect with any covenant or agreement contained herein and such misrepresentation, noncompliance or breach is not cured, waived or eliminated within twenty (20) days of written notice thereof;
- (d) by Better Image, the Company or the Shareholder if the merger contemplated hereby or the IPO has not been consummated by September 30, 1999; or
- (e) by Better Image at any time prior to September 30, 1999 if Better Image determines in its sole discretion as the result of its legal, financial and operational due diligence with respect to the Company, that such termination is desirable and in the best interests of Better Image.

## **SECTION 11. NONDISCLOSURE OF CONFIDENTIAL INFORMATION.**

The Shareholder recognizes and acknowledges that they had in the past, currently have, and in the future may possibly have, access to certain confidential information of Better Image and Surviving Corporation that is a valuable, special and unique asset of Better Image's and Surviving Corporation's businesses. The Shareholder hereby agrees that they will not disclose such confidential information to any person, firm, corporation, association or other entity for any purpose or reason whatsoever, unless (i) such information becomes available to or known by the public generally through no fault of the Shareholder, (ii) disclosure is required by law or the order of any governmental authority under color of law, provided, that prior to disclosing any information pursuant to this clause (ii), the Shareholder shall, if possible, give prior written notice thereof to the other parties hereto, and provide such other parties hereto with the opportunity to contest such disclosure, (iii) the Shareholder reasonably believes that such disclosure is required in connection with the defense of a lawsuit against the disclosing party, or (iv) the Shareholder is the sole and exclusive owner of such confidential information as a result of the transactions contemplated hereunder or otherwise. In the event of a breach or threatened breach by the Shareholder of the provisions of this Section 11, Better Image or Surviving Corporation shall be entitled to an injunction restraining the Shareholder from disclosing, in whole or in part, such confidential information. Nothing herein shall be construed as prohibiting Better Image or Surviving Corporation from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages. The obligations of the parties under this Section 11 shall survive the termination of this Agreement.

## **SECTION 12. INVESTMENT AND SECURITIES REPRESENTATIONS.**

12.1 **ECONOMIC RISK; SOPHISTICATION.** The Shareholder represents that he is able to bear the economic risk of an investment in Better Image common stock acquired pursuant to this Agreement and can afford to sustain a total loss of such investment and have such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the proposed investment and therefore have the capacity to protect his own interests in connection with the acquisition of the Better Image common stock. The Shareholder or his respective representatives have had an adequate opportunity to ask questions and receive answers from the officers of Better Image concerning any and all matters relating to the background and experience of the officers and directors of Better Image, the plans for the operations of the business of Better Image, and any plans for additional acquisitions and the like. The Shareholder or his respective representatives have asked any and all questions in the nature described in the preceding sentence and all questions have been answered to their satisfaction.

12.2 **COMPLIANCE WITH LAW.** Shareholder represents and warrants that none of the shares of Better Image stock issued to Shareholder will be offered, sold, assigned, pledged, hypothecated, transferred or otherwise disposed of, except after full compliance with all of the applicable provisions of the 1933 Act and the rules and regulations of the SEC and applicable



state securities laws and regulations. All certificates evidencing shares of Better Image stock issued hereunder shall bear the following restrictive legend, as well as any legend required by the securities or blue sky laws of the state where Better Image resides:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF ANY JURISDICTION AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AFTER RECEIPT OF AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER THAT AN EXEMPTION FROM REGISTRATION IS AVAILABLE UNDER APPLICABLE SECURITIES LAWS.

12.3 ACCREDITED INVESTOR STATUS. The Shareholder represents and warrants that he is an "accredited investor" as defined in Rule 501(a) under the 1933 Act.

### SECTION 13. MISCELLANEOUS.

13.1 NOTICES. Any communications required or desired to be given hereunder shall be deemed to have been properly given if sent by hand delivery, or by facsimile AND overnight courier, to the parties hereto at the following addresses, or at such other address as either party may advise the other in writing from time to time:

If to Better Image:

The Plastic Surgery Company  
Two Midtown Plaza, Suite 1220  
1360 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
Attn: Jonathan E. Wilfong  
Facsimile: (404) 898-1247  
Telephone: (404) 898-1240

with a copy of each notice directed to Better Image to:

King & Spalding  
191 Peachtree Street  
Atlanta, Georgia 30303-1763  
Attn: Paul A. Quiros, Esquire  
Facsimile: (404) 572-5146  
Telephone: (404) 572-4604

If to the Company or the Shareholder:

Nazareth Medical Group, Inc.

106 BOSTON AVE  
ALTAMONTE SPRINGS, FL 32701

Facsimile: 407-339-3085

Telephone: 407-339-3222

with a copy to:

MA

Attn:

Facsimile:

Telephone:

All such communications shall be deemed to have been delivered on the date of hand delivery or on the next business day following the deposit of such communications, properly addressed and postage prepaid with the overnight courier.

13.2 FURTHER ASSURANCES; ACCOUNTS RECEIVABLE. Each party hereby agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of Agreement. Shareholder shall assist Better Image and Surviving Corporation in collecting the accounts receivable of the Company acquired by Better Image in connection with this transaction and in the event that Shareholder shall receive the proceeds of any such accounts receivable, shall immediately forward such amounts to Surviving Corporation.

13.3 EACH PARTY TO BEAR COSTS. Each of the parties to this Agreement shall pay all of the costs and expenses incurred by such party in connection with the transactions contemplated by this Agreement, whether or not such transactions are consummated. Without limiting the generality of the foregoing and whether or not such liabilities may be deemed to have been incurred in the ordinary course of business, Better Image and Surviving Corporation shall not be liable to or required to pay, either directly or indirectly, any (a) fees and expenses of legal counsel, accountants, auditors or other persons or entities retained by the Company, the New Corporation or the Shareholder for services rendered in connection with negotiating and closing the transactions contemplated by this Agreement or the documents to be executed in connection herewith, whether or not such costs or expenses are incurred before or after the Closing Date and the Shareholder shall be liable for all such costs and expenses of the Company, and (b) local, state and federal income taxes or other similar charges on income or gain incurred by the Company, the New Corporation or the Shareholder as a result of the transactions contemplated hereby.

13.4 PUBLIC DISCLOSURES. Except as otherwise required by law, no party to this Agreement shall make any public or other disclosure of this Agreement or the transactions contemplated hereby without the prior consent of the other parties. The parties to this Agreement shall cooperate with respect to the form and content of any such disclosures.

13.5 GOVERNING LAW. THIS AGREEMENT SHALL BE INTERPRETED, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA AND APPLIED WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAWS PRINCIPLES.

13.6 CAPTIONS. The captions or headings in this Agreement are made for convenience and general reference only and shall not be construed to describe, define or limit the scope or intent of the provisions of this Agreement.

13.7 INTEGRATION OF EXHIBITS. All Exhibits attached to this Agreement are integral parts of this Agreement as if fully set forth herein, and all statements appearing therein shall be deemed disclosed for all purposes and not only in connection with the specific representation in which they are explicitly referenced.

13.8 ENTIRE AGREEMENT. THIS INSTRUMENT, INCLUDING ALL EXHIBITS ATTACHED HERETO, CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDES ANY AND ALL PRIOR OR CONTEMPORANEOUS AGREEMENTS BETWEEN THE PARTIES, WRITTEN OR ORAL, WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING WITHOUT LIMITATION THE ASSET PURCHASE AGREEMENT.

13.9 COUNTERPARTS. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute and be one and the same instrument.

13.10 BINDING EFFECT/ASSIGNMENT. This Agreement shall be assignable by Better Image to any person, firm or corporation that controls or is under common control with Better Image. Except as set forth above, no party shall have the right to assign their respective rights and obligations hereunder without the written consent of the other party, which consent shall not be unreasonably withheld. In considering whether or not to grant or withhold consent, it shall be deemed reasonable for the cosmetic and reconstructive surgery practice to take into account the management style, philosophy and performance of such assignee, in addition to any other commercially reasonable facts and circumstances at the time. Subject to this provision, this Agreement shall be binding upon the parties hereto, and their successors and assigns.

13.11 AMENDMENTS; WAIVER. This Agreement may be amended, modified or

supplemented only by an instrument in writing executed by all the parties hereto. Any waiver of the terms and conditions hereof must be in writing, and signed by the parties hereto. The waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms and conditions hereof.

13.12 ARBITRATION. Any controversy, dispute or disagreement arising out of or relating to this Agreement, the breach thereof, or the subject matter thereof, shall be settled exclusively by binding arbitration, which shall be conducted in Georgia in accordance with the Commercial Arbitration Rules administered by the American Arbitration Association before a single arbitrator selected by the parties jointly. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

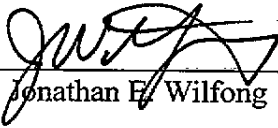
13.13 SERVICE OF PROCESS. Service of any and all process that may be served on any party hereto in any suit, action or proceeding arising out of this Agreement may be made in the manner and to the address set forth in Section 13.1 and service thus made shall be taken and held to be valid personal service upon such party by any party hereto on whose behalf such service is made.

13.14 SEVERABILITY. If any provision of this Agreement shall be found to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such provision never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect. In lieu of such provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such provision as may be possible and be legal, valid and enforceable.

13.15 KNOWLEDGE. For purposes of this Agreement, "knowledge" means actual knowledge of any party, Shareholder, partners, officers and directors, after reasonable investigation.

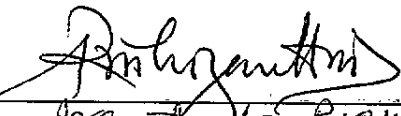
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**THE PLASTIC SURGERY COMPANY**

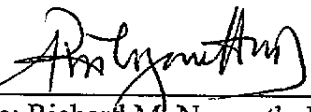
By:   
Name: Jonathan E. Wilfong  
Title: \_\_\_\_\_

**COMPANY:**

**NAZARETH MEDICAL GROUP, INC.**

By:   
Name: President RICHARD M. NAZARETH  
Title: President

**SHAREHOLDER:**

By:   
Name: Richard M. Nazareth, M.D.

**ANNEX I**

**MERGER CONSIDERATION**

The consideration to be received by the Shareholder pursuant to the Agreement (the "Merger Consideration") is payable as follows:

Better Image hereby agrees to pay to the Shareholder Better Image common stock and cash totaling an amount equal to \$1,500,000 ( the "Purchase Price"). The Purchase Price shall be paid as follows:

(a) 20% of the Purchase Price shall be paid in cash or immediately available funds at Closing; and

(b) The remainder of the Purchase Price to be paid to the Shareholder in stock of Better Image to be valued at the time of the IPO, which IPO shall occur simultaneously with the Closing.

As used herein, the term "Adjusted Gross Revenue" shall be determined in accordance with generally accepted accounting principles and shall mean all fees and charges recorded or booked by or on behalf of the Company as a result of professional cosmetic and reconstructive services personally furnished to patients by the Surgeon's and those under the Surgeon's supervision and other fees or income generated in their capacity as professionals after any adjustments for uncollectible accounts, professional courtesies and other activities that do not generate a collectible fee.

## INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Description</u>
2.1	Capitalization of the Company; Partnership/Joint Venture Agreements
2.3	Permits and Licenses
2.5	Consents
2.6	Financial Statements
2.7	Leases
2.9	Personal Property; Encumbrances
2.11	Patents and Trademarks; Names
2.12	Directors and Officers; Payroll Information
2.13	Legal Proceedings
2.14	Contracts (other than Leases)
2.16	Accounts Receivable/Accounts Payable
2.19	Debt
2.20	Insurance Policies
2.21	Employee Benefit Plans
2.28	Banking Relations
2.31	Payors
3.5	Legal Proceedings
6.7	Form of Service Agreement
6.8	Form of Employment Agreement
10.1(m)	Shareholder Release

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10.1(o)      Receipt of Better Image Stock