

DEC 7, 2005 11:33AM  
Division of Corporations

TRENAM, KEMKER

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P04000135374

Florida Department of State  
Division of Corporations  
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## MERGER OR SHARE EXCHANGE

### PROXIMITY TECHNOLOGIES, INC.

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Merge  
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ARTICLES OF MERGER  
OF  
Proximiti Technologies, Inc., a Florida corporation  
INTO  
Proximiti Technologies, Inc., a Delaware corporation

Proximiti Technologies, Inc., a Florida corporation, and Proximiti Technologies, Inc., a Delaware corporation, acting in compliance with the provisions of Section 607.1105, Florida Statutes, hereby certify as follows:

1. The name and jurisdiction of the surviving corporation is Proximiti Technologies, Inc., a Delaware corporation ("PTI Delaware") (Delaware File No. 4069794).
2. The name and jurisdiction of the merging corporation is Proximiti Technologies, Inc., a Florida corporation ("PTI Florida") (Florida Document No. P04000135374).
3. The Agreement and Plan of Merger is attached hereto as Exhibit A.
4. The Agreement and Plan of Merger was approved by the shareholders of PTI Delaware on December 2, 2005;
5. The Agreement and Plan of Merger was approved by the shareholders of PTI Florida on December 2, 2005.
6. The merger shall become effective on December 7<sup>th</sup>, 2005.

Proximiti Technologies, Inc.,  
a Delaware corporation

Dated: December 7, 2005

By: [Signature]  
D. Gregory Smith, Chief Executive Officer

Proximiti Technologies, Inc.,  
a Florida corporation

Dated: December 7, 2005

By: [Signature]  
D. Gregory Smith, Chief Executive Officer

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Exhibit A

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is made and entered into this 7th day of December, 2005, by and between **Proximiti Technologies, Inc.**, a Delaware corporation ("PTI Delaware"), and **Proximiti Technologies, Inc.**, a Florida corporation ("PTI Florida"). PTI Delaware and PTI Florida are sometimes collectively referred to in this Agreement as the "Constituent Business Entities" and each is sometimes referred to individually as a "Constituent Business Entity."

WITNESSETH:

WHEREAS, the Board of Directors of each Constituent Business Entity deems it advisable and for the general welfare of such Constituent Business Entity and its owners that PTI Florida merge with and into PTI Delaware and that PTI Delaware merge PTI Florida with and into itself, pursuant to this Agreement and the applicable laws of the State of Florida and the State of Delaware.

NOW, THEREFORE, the Constituent Business Entities, in consideration of the premises and the mutual covenants, agreements and provisions hereinafter contained, do hereby agree upon and prescribe the terms and conditions of said merger and the method of carrying the same into effect in this Agreement as follows:

1. Plan of Merger. The Constituent Business Entities have agreed and do hereby agree each with the other that PTI Florida shall be merged with and into PTI Delaware, and that PTI Delaware shall merge PTI Florida with and into itself. PTI Delaware shall be the surviving party in the merger and shall be governed by the laws of the State of Delaware, which state shall continue to be its domicile.
2. Effective Date. The merger provided for in this Agreement shall become effective and the Constituent Business Entities shall be deemed to have merged as of December 7, 2005 (the "Effective Date").
3. Manner of Converting Shares. Pursuant to the merger, (1) the stock certificate issued to D. Gregory Smith representing one (1) share of Class A Common Stock, which constitutes the sole share of outstanding PTI Delaware capital stock, shall be cancelled; (2) each outstanding share of PTI Florida Series A Preferred Stock shall be converted into an equal number of shares of PTI Delaware Series A Preferred Stock; (3) each outstanding share of PTI Florida Class A Common Stock shall be converted into an equal number of shares of PTI Delaware Class A Common Stock; (4) each outstanding share of PTI Florida Class B Common Stock shall be converted into an equal number of shares of PTI Delaware Class B Common Stock, so that immediately after the merger, the percentage ownership of PTI Delaware owned by each stockholder of PTI Delaware is the same percentage ownership that each such stockholder owned in PTI Florida

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immediately before the merger and (5) thereafter, each stock certificate representing shares of PTI Florida Series A Preferred Stock, PTI Florida Class A Common Stock and PTI Florida Class B Common Stock will be canceled.

4. Effect of the Merger.

(a) Existence of PTI Florida. On the Effective Date, the separate existence of PTI Florida shall cease and it shall be merged with and into PTI Delaware. Thereupon, all the property, real, personal, and mixed, and all interest therein of PTI Florida and all debts due to it shall be transferred to and invested in PTI Delaware without further act or deed and without reversion or impairment. PTI Delaware shall thenceforth be responsible and liable for all the liabilities and obligations of PTI Florida.

(b) Certificate of Incorporation. The Certificate of Incorporation of PTI Delaware, as in effect on the Effective Date, shall continue in full force and effect as the Certificate of Incorporation of PTI Delaware and shall not be changed or amended by the merger.

(c) By-laws. The By-laws of PTI Delaware, as in effect on the Effective Date, shall continue in full force and effect as the By-laws of PTI Delaware and shall not be changed or amended by the merger.

(d) Officers and Directors. Until altered by the shareholders of PTI Delaware, the duly elected directors and officers of PTI Delaware shall continue to serve as the directors and officers of PTI Delaware and shall not be changed or otherwise affected by the merger.

5. Conditions of Merger. This Agreement shall promptly be submitted to the shareholders of PTI Delaware and to the shareholders of PTI Florida for approval. The affirmative vote of the holders of all of the shares of PTI Delaware entitled to vote and the affirmative vote of the holders of all of the shares of PTI Florida entitled to vote shall be required for such approval.

6. Representations And Warranties of PTI Delaware. PTI Delaware hereby represents and warrants to PTI Florida that:

(a) Organization and Good Standing. PTI Delaware is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Authority. The execution, delivery and performance of this Agreement have been duly authorized and approved by the Board of Directors of PTI Delaware. Except for the shareholder approval as required in Section 5 of this Agreement, no further corporate action is required of PTI Delaware by the Delaware General Corporation Law or otherwise to make this Agreement a valid and binding agreement of PTI Delaware, enforceable against PTI Delaware in accordance with its terms.

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7. Representations and Warranties of PTI Florida.

PTI Florida hereby represents and warrants to PTI Delaware that:

(a) Organization and Active Status. PTI Florida is a corporation duly organized, validly existing and in active status under the laws of the State of Florida.

(b) Authority. The execution, delivery and performance of this Agreement have been duly authorized and approved by the Board of Directors of PTI Florida. Except for the shareholder approval as required by Section 5 of this Agreement, no further action is required by the Florida Business Corporation Act or otherwise to make this Agreement a valid and binding agreement of PTI Florida, enforceable against PTI Florida in accordance with its terms.

(c) No Undisclosed Liabilities. PTI Florida has previously disclosed to PTI Delaware all of PTI Florida's liabilities and obligations, whether secured, unsecured, contingent or otherwise, of any nature.

8. General Provisions.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes and cancels any other agreement, representation or communication, whether oral or written, among the parties hereto relating to the transactions contemplated herein or the subject matter hereof.

(b) Headings. The headings in the Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(c) Expenses. PTI Delaware shall pay all expenses of carrying this Agreement into effect and of accomplishing the merger.

(d) Amendment; Termination. This Agreement may be terminated or amended by the mutual consent of the Board of Directors of PTI Delaware and the Board of Directors of PTI Florida, whether before or after approval of this Agreement by the shareholders of PTI Delaware or by the shareholders of PTI Florida.

(e) Further Assurances. PTI Florida agrees that from time to time following the Effective Date, as and when requested by PTI Delaware, it will execute and deliver, or cause to be executed and delivered, all such deeds and other instruments, and will take or cause to be taken such further or other action, as PTI Delaware may deem necessary or desirable, in order more fully to vest in and confirm to PTI Delaware title to and possession of all of its said property, rights, privileges, powers and franchises and otherwise to carry out the intent and purposes of this Agreement.

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DEC. 7. 2005 11:36AM

TRENAM, KEMKER

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**IN WITNESS WHEREOF**, each party hereto has caused its duly authorized officer to execute this Agreement and Plan of Merger.

PROXIMITY TECHNOLOGIES, INC.,  
A FLORIDA CORPORATION

By: 

D. Gregory Smith  
Chief Executive Officer

PROXIMITY TECHNOLOGIES, INC.,  
A DELAWARE CORPORATION

By: 

D. Gregory Smith  
Chief Executive Officer

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