

Division of Corporation

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DIVISION OF CORPORATIONS

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## From:

Account Name : DUANE MORRIS & HECKSCHER, LLP  
Account Number : I19990000059  
Phone : (305)960-2220  
Fax Number : (305)960-2201

Attention: Olga Giberger-Lee, Legal Asst.

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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## MERGER OR SHARE EXCHANGE

INFORMATION TECHNOLOGY CONSULTING, INC.

Certificate of Status	0
Certified Copy	0
Page Count	38
Estimated Charge	\$70.00

Merger HC  
PRG 2/12  
41

ARTICLES OF MERGER  
Merger Sheet

MERGING: \_\_\_\_\_

SUDDEN SOLUTIONS, INC., a Florida corporation, document number  
P98000025173

INTO

INFORMATION TECHNOLOGY CONSULTING, INC. which changed its name to  
**SOLUXIONS, INC.**, a Florida entity, P95000089263.

File date: February 9, 2001

Corporate Specialist: Karen Gibson

FEBRUARY 9, 2001

SUDDEN SOLUTIONS, INC.  
440 CASTANIA AVENUE  
CORAL GABLES, FL 33146

SUBJECT: SUDDEN SOLUTIONS, INC.  
REF: P98000025173

WE RECEIVED YOUR ELECTRONICALLY TRANSMITTED DOCUMENT. HOWEVER, THE DOCUMENT HAS NOT BEEN FILED. PLEASE MAKE THE FOLLOWING CORRECTIONS AND REFAX THE COMPLETE DOCUMENT, INCLUDING THE ELECTRONIC FILING COVER SHEET.

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THE DOCUMENT SHOULD BE SENT AS A MERGER UNDER THE NAME OF THE SURVIVOR.

PLEASE REMOVE THE WORD "INITIAL" FROM 1.5c.

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KAREN GIBSON  
CORPORATE SPECIALIST

FAX AUD. #: H01000016039  
LETTER NUMBER: 301A00008260

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ARTICLES OF MERGER OF  
SUDDEN SOLUTIONS, INC.  
INTO

INFORMATION TECHNOLOGY CONSULTING, INC.,  
(WHICH SURVIVING CORPORATION SIMULTANEOUSLY IS CHANGING ITS  
NAME TO SOLUXIONS, INC.)

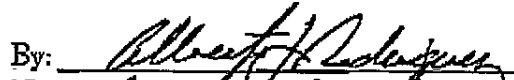
The following Articles of Merger are being submitted in accordance with section 607.1105, Florida Statutes.

- FIRST:** The Agreement and Plan of Merger between Sudden Solutions, Inc. and Information Technology Consulting, Inc., each a Florida corporation, is attached hereto as Attachment 1.
- SECOND:** The Agreement and Plan of Merger was approved by each domestic corporation that is a party to the merger in accordance with the applicable provisions of Chapter 607, Florida Statutes.
- THIRD:** The Merger shall become effective upon the filing of these Articles of Merger with the Florida Secretary of State.
- FOURTH:** Upon the effective date of the merger, the Articles of Incorporation of Information Technology Consulting, Inc. (the "Surviving Corporation") shall be amended and restated in the form attached to the Agreement and Plan of Merger as Exhibit "A" thereto which among other things change the name of the Surviving Corporation to Soluxions, Inc., a Florida corporation.

Sudden Solutions, Inc.

Information Technology Consulting, Inc..

By:   
Name: Michael S. Herzman  
Title: PRESIDENT

By:   
Name: Alberto J. Rodriguez  
Title: PRESIDENT

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA**AGREEMENT AND PLAN OF MERGER**

**AGREEMENT AND PLAN OF MERGER ("Agreement")** dated this 9<sup>th</sup> day of Feb, 2001 by and between **SUDDEN SOLUTIONS, INC. ("SSI")**, a Florida corporation, **INFORMATION TECHNOLOGY CONSULTING, INC. ("ITCI")**, a Florida corporation, **MICHAEL S. HERMAN and PETER L. LOUNDAGIN** (jointly and severally, the "**SSI Shareholders**"), and **OLIVER R. KRAMER and ALBERTO J. RODRIGUEZ** (jointly and severally, the "**ITCI Shareholders**").

**RECITALS**

WHEREAS, the Boards of Directors of SSI and ITCI have each determined that it is in the best interests of their respective shareholders to combine the corporations upon the terms and subject to the conditions set forth herein; and

WHEREAS, the Boards of Directors of SSI and ITCI have each approved the merger of SSI with and into ITCI (the "**Merger**") and the transactions contemplated by this Agreement, as a tax-free exchange under Section 368 of the Code, upon the terms and subject to the conditions set forth herein; and

WHEREAS, the Boards of Directors of SSI and ITCI have each determined that the Merger is fair to their shareholders and have approved resolutions recommending that the shareholders of SSI and ITCI approve and adopt this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, representations, warranties and agreements hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I**  
**THE MERGER**

**1.1 The Merger.** At the Effective Time (as defined in Section 1.2), upon the terms and subject to the conditions of this Agreement and the Florida Business Corporation Act (the "**FBCA**") SSI shall be merged with and into ITCI, the separate corporate existence of SSI shall cease and ITCI shall continue after the Merger as the surviving corporation. ITCI, as the surviving corporation after the Merger, is hereinafter sometimes referred to as the "**Surviving Corporation**".

**1.2 Effective Time; Closing.** Within five (5) days after the satisfaction or waiver of the conditions set forth in Articles VI, VII and VIII, the parties hereto shall cause the Merger to be consummated by executing, delivering and filing Articles of Merger (the "**Articles of Merger**") with the Secretary of State of the State of Florida in such form as required by, and executed in accordance with the relevant provisions of, the FBCA (the time of such filing being the "**Effective Time**"), and the parties shall take all such other and further actions as may be required by law to cause the Merger to become effective. Prior to the filing of the Articles of Merger, a closing (the "**Closing**") will be held at the offices of Duane, Morris & Heckscher LLP, 200 South Biscayne Boulevard, Miami,

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Florida 33131 (or such other place as the parties may agree) for the purpose of confirming all the foregoing.

**1.3 Effect of the Merger.** At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the FBCA. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all the property, rights, privileges, powers and franchises of SSI shall vest in the Surviving Corporation, and all debts, liabilities and duties of SSI shall become the debts, liabilities and duties of the Surviving Corporation.

**1.4 Subsequent Actions.** If, at any time after the Effective Time, 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 SSI 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, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of SSI, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of each of such corporations 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.

**1.5 Articles of Incorporation; Bylaws; Directors and Officers.**

(a) At the Effective Time, the Articles of Incorporation of ITCI shall be amended and restated as set forth in Exhibit A attached hereto, which shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided by law.

(b) At the Effective Time, the Bylaws of ITCI, as amended and restated by the Board of Directors of ITCI immediately before the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter amended as provided by law, the Articles of Incorporation of the Surviving Corporation and such Bylaws.

(c) At the Effective Time, the directors and officers of the Surviving Corporation shall as set forth below, in each case until their successors are duly elected or appointed and shall qualify. If, at the Effective Time, a vacancy shall exist on the Board of Directors or in any office of the Surviving Corporation, such vacancy may thereafter be filled in the manner provided by the Articles of Incorporation and Bylaws of the Surviving Corporation, and by law.

Michael S. Herman	-	Director, Chairman and CEO
Alberto J. Rodriguez	-	Director, President and COO
Peter L. Loundagin	-	Director, Vice President and CTO
Oliver R. Kramer	-	Director, Secretary, Treasurer and CFO

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**1.6 Stock Split.** At the Effective Time, without any action on the part of ITCI, each share of ITCI's Common Stock, \$1.00 par value per share, issued and outstanding immediately before the Effective Time shall be split and converted into 5,000 shares of Common Stock of ITCI as the Surviving Corporation.

**1.7 Conversion of Securities.** At the Effective Time, by virtue of the Merger and without any action on the part of SSI, the following securities conversions shall occur:

(a) Each share of SSI's Common Stock \$1.00 par value per share (the "Shares") issued and outstanding immediately before the Effective Time (other than any Dissenting Shares (as defined in Section 2.1(e)) shall be cancelled and extinguished and be converted into the right to receive 1,000 shares of the Common Stock of ITCI (the "Merger Consideration") issuable to the holder thereof upon surrender of the certificate representing such Shares.

(b) Each Share held in the treasury of SSI immediately prior to the Effective Time shall be cancelled and extinguished and no payment or other consideration shall be made with respect thereto.

(c) As a result of the foregoing stock split and share conversion, each of the SSI Shareholders and each of the ITCI Shareholders will be entitled to receive 500,000 shares of the Common Stock, \$0.001 par value per share (the "Common Stock"), of the Surviving Corporation.

**1.8 Shareholders' Meeting.** SSI and ITCI, acting through their Boards of Directors, shall, in accordance with the FBCA, duly call, give notice of, convene and hold a special meeting of their shareholders or otherwise solicit written consents as soon as practicable following the execution of this Agreement for the purpose of considering and taking action upon this Agreement.

## **ARTICLE II**

### **EXCHANGE OF SHARES**

#### **2.1 Exchange of Shares.**

(a) Promptly after the Effective Time, each holder of Shares shall surrender to the Surviving Corporation each outstanding certificate or certificates (the "Certificates") which immediately prior to the Effective Time represented shares of Shares registered on the stock transfer books of SSI in such holder's name, duly endorsed in blank or with stock powers duly executed in blank. Upon surrender to the Surviving Corporation of a Certificate, the holder of such Certificate shall be entitled to receive, in exchange therefor, the Merger Consideration multiplied by the number of Shares represented by such Certificate and such Certificate shall forthwith be cancelled. After the Effective Time and until surrendered in accordance with the provisions of this Section 2.1, each Certificate shall represent for all purposes only the right to receive the Merger Consideration payable in accordance with the terms and conditions specified in Section 1.6 hereof.

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(b) After the Effective Time, the stock transfer books of SSI shall be closed and there shall be no transfers on the stock transfer books of SSI of Shares which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for transfer, they shall be cancelled and exchanged for the Merger Consideration.

(c) Notwithstanding anything to the contrary in this Article II, neither the Surviving Corporation nor any party hereto shall be liable to a holder of a Certificate for any amount properly paid to a public official pursuant to the requirements of any applicable abandoned property, escheat or similar law.

(d) The Merger Consideration shall not be paid in respect of any Shares the holders of which, pursuant to Article XIII of the FBCA, shall have objected to the Merger in writing, shall have demanded and perfected the right to payment of the value of their Shares and, as of the Effective Time, shall not have effectively withdrawn or lost such rights ("Dissenting Shares"). The holders of Dissenting Shares shall only have the rights provided by Article XIII of the FBCA. If a holder of Dissenting Shares shall effectively withdraw or lose such rights (through failure or otherwise), then, as of the Effective Time, Shares held by such holder shall be converted into the right to receive the Merger Consideration in accordance with Section 1.6.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES OF SSI**

SSI and the SSI Shareholders represent and warrant to, and agree with, ITCI and the ITCI Shareholders as follows:

#### **3.1 Organization.**

(a) SSI is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida. SSI has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. SSI is duly qualified to do business and in good standing as a foreign corporation in the all jurisdictions in which the property owned, leased or operated by SSI or the nature of the business conducted by it makes such qualification necessary. SSI has heretofore delivered to ITCI true, accurate and complete copies of its Articles of Incorporation and Bylaws as in effect on the date hereof and minutes of all meetings of the shareholders and directors of SSI held through and including the date of this Agreement. SSI is not in violation of any of the provisions of its Articles of Incorporation or Bylaws.

(b) SSI has no subsidiaries or Affiliates and does not otherwise own any shares of stock or any interest in, or control, any other Person.

**3.2 Capitalization.** SSI has authorized capital stock of 1,000 shares of Common Stock, \$1.00 par value per share, of which 1,000 shares are issued and outstanding as of the date hereof and

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of which 500 shares are held by each of the SSI Shareholders. All issued and outstanding shares of capital stock of SSI have been duly authorized, validly issued, fully paid, nonassessable and free of preemptive rights. There are no other convertible securities, options, warrants, subscription calls or other rights or agreements, arrangements or commitments obligating SSI to issue, transfer or sell any of its securities. None of such issued and outstanding shares is the subject of any voting trust agreement or other agreement relating to the voting thereof or restricting in any way the sale or transfer thereof.

**3.3 Authority Relative to this Agreement.** SSI has full corporate power and authority to execute and deliver this Agreement and, subject to obtaining any necessary shareholder approval of the Merger, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of SSI. Except for the requisite approval of the shareholders of SSI of this Agreement, no other corporate proceedings on the part of SSI are necessary to authorize this Agreement or to consummate the transactions so contemplated. This Agreement has been duly and validly executed and delivered by SSI and constitutes the valid and binding agreement of SSI, enforceable against SSI in accordance with its terms.

**3.4 No Conflict; Required Filings and Consents.**

(a) The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby will not, (i) conflict with or violate any law, regulation, court order, judgment or decree applicable to SSI, (ii) violate or conflict with the Articles of Incorporation or Bylaws of SSI, or (iii) result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination or cancellation of any Contract, permit, license or franchise to which SSI is a party or by which SSI is bound or affected, except for conflicts, violations, breaches or defaults which, in the aggregate, would not have a material adverse effect on the business, operations, Assets, Liabilities, condition (financial or otherwise), results of operations or prospects (a "Material Adverse Effect") of SSI.

(b) Except for the filing of Articles of Merger, the execution, delivery and performance of this Agreement do not, and the consummation of the transactions contemplated hereby will not, require any notice, report or other filing with any governmental authority, domestic or foreign, or require any waiver, consent, approval or authorization of any Person or any governmental or regulatory authority, domestic or foreign.

**3.5 Financial Statements.** SSI has previously delivered to ITCI: the balance sheet of SSI as of December 31, 2000 and the related statements of income and retained earnings and statements of cash flows for the year then ended, including the notes thereto (the "SSI Financial Statements"). The SSI Financial Statements (i) were prepared on a cash basis, (ii) are in accordance with the books and records SSI, and (iii) present fairly the financial position and results of operations of SSI at the dates and for the periods to which they relate. Such books and records are, and during the periods covered by the SSI Financial Statements were, correct and complete in all material

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respects, fairly and accurately reflect and reflected the income, expenses, Assets and Liabilities of SSI and provide and provided a fair and accurate basis for the preparation of the SSI Financial Statements and of the Tax returns and reports of SSI.

### **3.6 Real and Personal Property.**

(a) SSI owns no real property.

(b) SSI has delivered to ITCI correct and complete copies of the leases and subleases for all real property leased or subleased to SSI.

(c) SSI has good and marketable title to, or valid leasehold interests in, all other Assets used or held for use in the conduct of its business, including, without limitation, the Assets reflected on the SSI Financial Statements or acquired after the date thereof (other than those which have been disposed of in the ordinary course of business since such date), free and clear of any Liens, other than Liens reflected on the SSI Financial Statements and Liens for Taxes not yet due and payable. All of the Assets owned or leased by SSI are in all material respects in good condition and repair, ordinary wear and tear excepted, and well maintained and are used in connection with the conduct of SSI's business.

**3.7 No Undisclosed Liabilities.** Except as and to the extent reflected on the SSI Financial Statements or incurred in the ordinary course of business of SSI, on the date hereof, SSI has had no direct or indirect Liabilities, whether due or to become due, or arising out of transactions entered into, or any state of facts existing, on or prior to the date hereof which would be required to be reflected on the SSI Financial Statements.

**3.8 Absence of Certain Changes.** Since December 31, 2000, (i) there has been no material adverse change in the condition (financial or otherwise), Assets, Liabilities, results of operations, business or prospects of SSI, and (ii) to SSI's knowledge, nothing has occurred relative to the business or prospects of SSI which would have a Material Adverse Effect on the future business of SSI.

**3.9 Tax Matters.** SSI has filed (or received an appropriate extension of time to file) all Tax Returns required to be filed by it, has paid all taxes shown to be due on such Tax Returns or otherwise due, and has made appropriate provision in the SSI Financial Statements for any Taxes not yet due, and all such Tax Returns were, are and will be true, correct and complete in all material respects. SSI has been a valid electing S corporation within the meaning of Sections 1361 and 1362 of the Code at all times during its existence.

**3.10 Entire Business.** No portion of the business of SSI is conducted by the shareholders of SSI (except in their capacities as employees, officers and/or directors of SSI) or any of their Affiliates and all of the Assets necessary for the conduct of the business of SSI as presently

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conducted are owned by SSI. All such Assets are exclusively owned or leased and used by SSI and their customers and not by shareholders of SSI or any of their Affiliates.

### **3.11 Litigation; Liability.**

(a) No investigation or review by any governmental entity or regulatory body, foreign or domestic, with respect to SSI is pending or, to the knowledge of SSI, threatened against SSI, and no governmental entity or regulatory body has advised SSI of an intention to conduct the same. There is no claim, action, suit, investigation or proceeding pending or, to the knowledge of SSI, threatened against or affecting SSI at law or in equity or before any federal, state, municipal or other governmental entity or regulatory body, or which challenges the validity of this Agreement or any action taken or to be taken by SSI pursuant to this Agreement. As of the date hereof, SSI is not subject to, nor is there in existence, any outstanding judgment, award, order, writ, injunction or decree of any court, governmental entity or regulatory body relating to SSI.

(b) SSI has no Liability (and there is no basis for any present or, to SSI's knowledge, future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against SSI giving rise to any Liability) arising out of any injury to individuals or property as a result of the ownership, possession, or use of any product developed, manufactured, sold, leased, or delivered by SSI.

### **3.12 Employee Benefit Plans.**

(a) SSI has delivered to ITCI copies of each Employee Benefit Plan that SSI maintains or to which SSI contributes. Each such Employee Benefit Plan (and each related trust, insurance contract, or fund) complies in form and in operation in all respects with the applicable requirements of ERISA, the Code, and other applicable laws. All required reports and descriptions have been filed or distributed appropriately with respect to each such Employee Benefit Plan. The requirements of Part 6 of Subtitle B of Title I of ERISA and of Code Section 4980B have been met with respect to each such Employee Benefit Plan which is an Employee Welfare Benefit Plan. All contributions which are due have been paid to each such Employee Benefit Plan which is an Employee Pension Benefit Plan and all contributions for any period ending on or before the Closing which are not yet due have been paid to each such Employee Pension Benefit Plan or accrued in accordance with the past custom and practice of SSI. All premiums or other payments for all periods ending on or before the Closing have been paid with respect to each such Employee Benefit Plan which is an Employee Welfare Benefit Plan. Each such Employee Benefit Plan which is an Employee Pension Benefit Plan meets the requirements of a "qualified plan" under Code Section 401(a), has received, within the last two years, a favorable determination letter from the Internal Revenue Service, and has not received any notice of failure to comply with any applicable regulation of the Internal Revenue Service.

(b) With respect to each Employee Benefit Plan that SSI maintains or ever has maintained or to which it contributes, ever has contributed, or ever has been required to contribute:

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(i) No such Employee Benefit Plan which is an Employee Pension Benefit Plan (other than any Multiemployer Plan) has been completely or partially terminated or been the subject of a reportable event as to which notices would be required to be filed with the PBGC. No proceeding by the PBGC to terminate any such Employee Pension Benefit Plan (other than any Multiemployer Plan) has been instituted or, to the knowledge of SSI, threatened.

(ii) There have been no prohibited transactions with respect to any such Employee Benefit Plan. No fiduciary has any Liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any such Employee Benefit Plan. No action, suit, proceeding, hearing, or investigation with respect to the administration or the investment of the assets of any such Employee Benefit Plan (other than routine claims for benefits) is pending or, to the knowledge of SSI, threatened. SSI has no knowledge of any basis for any such action, suit, proceeding, hearing, or investigation.

(iii) SSI has not incurred, and SSI has no reason to expect that it will incur, any Liability to the PBGC (other than PBGC premium payments) or otherwise under Title IV of ERISA (including any withdrawal Liability) or under the Code with respect to any such Employee Benefit Plan which is an Employee Pension Benefit Plan.

(c) SSI does not contribute to and never has been required to contribute to any Multiemployer Plan, and SSI has no Liability (including withdrawal Liability) under any Multiemployer Plan.

(d) SSI does not maintain or contribute to and has never has been required to maintain or contribute to any Employee Welfare Benefit Plan providing medical, health, or life insurance or other welfare-type benefits for current or future retired or terminated employees, their spouses, or their dependents (other than in accordance with Code Section 4980B).

(e) SSI does not have and has never had an ERISA Affiliate. For this purpose, an ERISA Affiliate is any trade or business the employees of which, together with the employees of SSI, would be treated as employed by a single employer under sections 414(b), (c), (m) or (o) of the Code.

(f) Each Employee Benefit Plan and Benefit Arrangement (defined in Section 3.17) may be terminated or amended by the plan sponsor, in any manner and at any time, without the consent of and without any further liability for benefits that may be accrued or expenses that may be incurred after the date of such termination or amendment.

(g) No Employee Benefit Plan or Benefit Arrangement has any provision that would prohibit the transactions contemplated by this Agreement, or give rise to any severance, termination or other payments or liabilities (including without limitation any acceleration in benefits, vesting or distribution) as a result of the transactions contemplated by this Agreement. No payment

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that is owed or may become due any director, officer, employee, or agent of SSI in connection with an Employee Benefit Plan or Benefit Arrangement will be non-deductible to the payor under section 280G of the Code or will be subject to tax under section 4999 of the Code, nor will SSI be required to "gross up" or otherwise compensate any person because of the imposition of any excise tax under section 4999 of the Code.

(h) SSI has no knowledge of any oral or written statement made by SSI or any officer, employee or agent thereof, regarding any Employee Benefit Plan or Benefit Arrangement that was not in accordance with the provisions of that plan and that could have a material adverse economic consequence to SSI.

### 3.13 Contracts.

(a) SSI has disclosed to ITCI the following Contracts, whether written or oral, to which SSI is a party:

(i) any Contract (or group of related Contracts) for the lease of personal property to or from any Person providing for lease payments in excess of \$20,000 per annum;

(ii) any Contract (or group of related Contract) for the purchase or sale of raw materials, commodities, supplies, products, or other personal property, or for the furnishing or receipt of services, the performance of which will extend over a period of more than one year, result in a loss to SSI, or involve consideration in excess of \$20,000;

(iii) any Contract concerning a partnership or joint venture;

(iv) any Contract (or group of related Contracts) under which it has created, incurred, assumed, or guaranteed any indebtedness for borrowed money, or any capitalized lease obligation or under which it has imposed a Lien on any of its assets, tangible or intangible;

(v) any Contract concerning confidentiality or noncompetition;

(vi) any Contract with any of the shareholders of SSI or their Affiliates;

(vii) any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance or other plan or arrangement for the benefit of its current or former directors, officers, and employees;

(viii) any Contract for the employment of any individual on a fulltime, parttime, consulting, or other basis providing annual compensation in excess of \$20,000 or providing severance benefits;

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(ix) any Contract under which it has advanced or loaned any amount to any of its directors, officers, and employees outside the ordinary course of business;

(x) any Contract under which the consent of the other party thereto is required in connection with the assignment of such Contract in connection with the transaction contemplated hereby;

(xi) any Contract under which the consequences of a default or termination could have a Material Adverse Effect on SSI; or

(xii) any other Contract (or group of related Contracts) the performance of which involves consideration in excess of \$20,000.

(b) SSI has previously provided ITCI access to true, correct and complete copies of all Contracts set forth in Section 3.13(a) (including, if any Contract has not been reduced to writing, a true, correct and complete written summary of the material terms thereof) (the "SSI Material Contracts"). All SSI Material Contracts have been duly authorized and delivered, are in full force and effect and constitute the valid and binding obligations of the respective parties thereto enforceable in accordance with their respective terms. As to the SSI Material Contracts, (i) there are no existing material breaches or defaults by SSI thereunder or, to the knowledge of SSI, by the other parties to such SSI Material Contracts, (ii) no event, act or omission has occurred or, as a result of the consummation of the transactions contemplated hereby, will occur which (with or without notice, lapse of time or the happening or occurrence of any other event) would result in a material default by SSI thereunder or give cause for termination thereof; provided that insofar as the foregoing representation involves the actions or omissions of parties other than SSI, it shall be limited to the knowledge of SSI, (iii) none of them will result in any material loss to SSI upon completion or performance thereof and (iv) none of the parties to SSI Material Contracts have expressed an indication to SSI of their intention to cancel, renegotiate or exercise or not exercise any option under any such Contracts.

### **3.14 Intellectual Property.**

(a) SSI owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the businesses of SSI and as proposed to be conducted. SSI has taken all necessary action to maintain and protect each item of Intellectual Property that it owns or uses.

(b) To SSI's knowledge, SSI has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and SSI has never received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that SSI must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of SSI,

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no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of SSI.

(c) To the knowledge of SSI, SSI will not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties as a result of the continued operation of its businesses as presently conducted and as presently proposed to be conducted.

### 3.15 Labor Matters.

(a) ITCI has been provided with true, complete and correct lists and copies (as applicable) of all employees of SSI, indicating the date of hire, nature of position and current compensation level, together with all employment, severance, termination, consulting, bonus, profit sharing, percentage compensation, deferred compensation, stock purchase or stock option plans or other compensation plans, agreements, commitments or arrangements that SSI has with all present or former directors, officers, employees, consultants or agents thereof or their Affiliates, excluding agreements and commitments terminable by SSI on not more than thirty (30) days notice without Liability (the "Benefit Arrangements"). SSI has not taken any action that could be deemed to trigger, and the consummation of the transactions contemplated hereby will not be deemed to trigger, any severance benefits under any of such Benefit Arrangements.

(b) SSI is not a party to any collective bargaining agreements. There is no unfair labor practice or employment discrimination or other employment related complaint, grievance or proceeding against SSI or against any Person with respect to any employee of SSI pending or, to the knowledge of SSI, threatened before any court, the National Labor Relations Board or any federal, state, local or foreign governmental entity or regulatory body. To the knowledge of SSI, there is no basis for any such complaint, grievance or proceeding.

(c) SSI and its employees have complied with all applicable laws respecting employment and employment practices, terms and conditions of employment and wages and hours. SSI has fully complied with all applicable provisions of COBRA and has no obligations with respect to any former employees qualifying as beneficiaries thereunder. SSI enjoys satisfactory relations with its employees and agents.

3.16 Insurance. SSI has delivered to ITCI the following information with respect to each insurance policy (including policies providing property, casualty, liability, and workers' compensation coverage and bond and surety arrangements) to which SSI is a party, a named insured, or otherwise the beneficiary of coverage:

- (a) the name, address, and telephone number of the agent;
- (b) the name of the insurer, the name of the policyholder, and the name of each covered insured; and

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(c) the policy number and the period of coverage.

With respect to each such insurance policy: (A) the policy is legal, valid, binding, enforceable, and in full force and effect; (B) SSI has no reason to believe that the policy will not continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby; (C) neither SSI nor, to the best of the knowledge of SSI, any other party to the policy is in breach or default (including with respect to the payment of premiums or the giving of notices), and no event has occurred which, with notice or the lapse of time or both, would constitute such a breach or default, or permit termination, modification, or acceleration, under the policy; and (D) no party to the policy has repudiated any provision thereof. SSI has been covered by insurance in scope and amount customary and reasonable for the businesses in which it has engaged. SSI has not received any notice that any such insurance policy will not be renewed or that any such policy will be terminated as a result of the consummation of the transactions contemplated by this Agreement.

**3.17 Absence of Certain Business Practices.** To the best of SSI's knowledge, neither SSI, its directors, officers, employees or agents nor any other Person acting on its or their behalf has, directly or indirectly, within the past five (5) years given or agreed to give any gift or similar benefit to any customer, supplier, governmental employee or other Person who is or may be in a position to help or hinder the business of SSI or assist SSI in connection with any actual or proposed transaction which (i) might subject SSI to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) might have had a Material Adverse Effect on SSI if not given in the past or (iii) might materially adversely affect the condition (financial or otherwise), business, Assets, Liabilities, operations or prospects of SSI or which might subject SSI to suit or penalty in any private or governmental litigation or proceeding if not continued in the future.

**3.18 Finder's Fee.** There is no investment banker, broker, finder or other intermediary which has been retained by, or is authorized to act on behalf of SSI or its Affiliates who might be entitled to any fee or commission from SSI or its Affiliates upon the consummation of the transactions contemplated hereby or thereafter.

**3.19 Unimpaired Operation.** Assuming the receipt of all consents and approvals required for the consummation of the Merger, upon consummation of the transactions contemplated hereby, SSI will be able to operate its business in the same manner as SSI was operated immediately prior to the Merger.

**3.20 Accuracy of Representations.** The representations and warranties made by SSI in this Agreement, and in any certificate or schedule referenced hereby or attached hereto, do not contain, and will not contain, any statement which is false or misleading with respect to any material fact and do not omit to state a material fact required to be stated herein or therein or necessary in order to make the statements contained herein or therein not materially false or misleading.

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**ARTICLE IV**  
**REPRESENTATIONS AND WARRANTIES OF ITCI**

ITCI and the ITCI Shareholders represent and warrant to, and agree with, SSI and the SSI Shareholders as follows:

**4.1 Organization.**

(a) ITCI is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida. ITCI has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. ITCI is duly qualified to do business and in good standing as a foreign corporation in the all jurisdictions in which the property owned, leased or operated by ITCI or the nature of the business conducted by it makes such qualification necessary. ITCI has heretofore delivered to SSI true, accurate and complete copies of its Articles of Incorporation and Bylaws as in effect on the date hereof and minutes of all meetings of the shareholders and directors of ITCI held through and including the date of this Agreement. ITCI is not in violation of any of the provisions of its Articles of Incorporation or Bylaws.

(b) ITCI has no subsidiaries or Affiliates and does not otherwise own any shares of stock or any interest in, or control, any other Person.

**4.2 Capitalization.** ITCI has authorized capital stock of 7,500 shares of Common Stock, par value \$1.00 per share, of which 200 shares are issued and outstanding as of the date hereof and of which 100 shares are held by each of the ITCI Shareholders. All issued and outstanding shares of capital stock of ITCI have been duly authorized, validly issued, fully paid, nonassessable and free of preemptive rights. There are no other convertible securities, options, warrants, subscription calls or other rights or agreements, arrangements or commitments obligating ITCI to issue, transfer or sell any of its securities. None of such issued and outstanding shares is the subject of any voting trust agreement or other agreement relating to the voting thereof or restricting in any way the sale or transfer thereof.

**4.3 Authority Relative to this Agreement.** ITCI has full corporate power and authority to execute and deliver this Agreement and, subject to obtaining any necessary shareholder approval of the Merger, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of ITCI. Except for the requisite approval of the shareholders of ITCI of this Agreement, no other corporate proceedings on the part of ITCI are necessary to authorize this Agreement or to consummate the transactions so contemplated. This Agreement has been duly and validly executed and delivered by ITCI and constitutes the valid and binding agreement of ITCI, enforceable against ITCI in accordance with its terms.

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#### **4.4 No Conflict; Required Filings and Consents.**

(a) The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby will not, (i) conflict with or violate any law, regulation, court order, judgment or decree applicable to ITCI, (ii) violate or conflict with the Articles of Incorporation or Bylaws of ITCI, or (iii) result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination or cancellation of any Contract, permit, license or franchise to which ITCI is a party or by which ITCI is bound or affected, except for conflicts, violations, breaches or defaults which, in the aggregate, would not have a Material Adverse Effect on the business, operations, Assets, Liabilities, condition (financial or otherwise), results of operations or prospects of ITCI.

(b) Except for the filing of Articles of Merger, the execution, delivery and performance of this Agreement do not, and the consummation of the transactions contemplated hereby will not, require any notice, report or other filing with any governmental authority, domestic or foreign, or require any waiver, consent, approval or authorization of any Person or any governmental or regulatory authority, domestic or foreign.

**4.5 Financial Statements.** ITCI has previously delivered to SSI: the balance sheet of ITCI as of December 31, 2000 and the related statements of income and retained earnings and statements of cash flows for the year then ended, including the notes thereto (the "**ITCI Financial Statements**"). The ITCI Financial Statements (i) were prepared on a cash basis, (ii) are in accordance with the books and records ITCI, and (iii) present fairly the financial position and results of operations of ITCI at the dates and for the periods to which they relate. Such books and records are, and during the periods covered by the ITCI Financial Statements were, correct and complete in all material respects, fairly and accurately reflect and reflected the income, expenses, Assets and Liabilities of ITCI and provide and provided a fair and accurate basis for the preparation of the ITCI Financial Statements and of the Tax returns and reports of ITCI.

#### **4.6 Real and Personal Property.**

(a) ITCI owns no real property.

(b) ITCI has delivered to SSI correct and complete copies of the leases and subleases for all real property leased or subleased ITCI.

(c) ITCI has good and marketable title to, or valid leasehold interests in, all other Assets used or held for use in the conduct of its business, including, without limitation, the Assets reflected on the ITCI Financial Statements or acquired after the date thereof (other than those which have been disposed of in the ordinary course of business since such date), free and clear of any Liens, other than Liens reflected on the ITCI Financial Statements and Liens for Taxes not yet due and payable. All of the Assets owned or leased by ITCI are in all material respects in good condition and

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repair, ordinary wear and tear excepted, and well maintained and are used in connection with the conduct of ITCI's business.

**4.7 No Undisclosed Liabilities.** Except as and to the extent reflected in the ITCI Financial Statements or incurred in the ordinary course of business of ITCI, on the date hereof, ITCI has had no direct or indirect Liabilities, whether due or to become due, or arising out of transactions entered into, or any state of facts existing, on or prior to the date hereof which would be required to be reflected on the ITCI Financial Statements.

**4.8 Absence of Certain Changes.** Since December 31, 2000, (i) there has been no material adverse change in the condition (financial or otherwise), Assets, Liabilities, results of operations, business or prospects of ITCI, and (ii) to ITCI's knowledge, nothing has occurred relative to the business or prospects of ITCI which would have a Material Adverse Effect on the future business of ITCI.

**4.9 Tax Matters.** ITCI has filed (or received an appropriate extension of time to file) all Tax Returns required to be filed by it, has paid all taxes shown to be due on such Tax Returns or otherwise due, and has made appropriate provision in the ITCI Financial Statements for any Taxes not yet due, and all such Tax Returns were, are and will be true, correct and complete in all material respects. ITCI has been a valid electing S corporation within the meaning of Sections 1361 and 1362 of the Code at all times during its existence.

**4.10 Entire Business.** No portion of the business of ITCI is conducted by the shareholders of ITCI (except in their capacities as employees, officers and/or directors of ITCI) or any of their Affiliates and all of the Assets necessary for the conduct of the business of ITCI as presently conducted are owned by ITCI. All such Assets are exclusively owned or leased and used by ITCI and their customers and not by shareholders of ITCI or any of their Affiliates.

**4.11 Litigation; Liability.**

(a) No investigation or review by any governmental entity or regulatory body, foreign or domestic, with respect to ITCI is pending or, to the knowledge of ITCI, threatened against ITCI, and no governmental entity or regulatory body has advised ITCI of an intention to conduct the same. There is no claim, action, suit, investigation or proceeding pending or, to the knowledge of ITCI, threatened against or affecting ITCI at law or in equity or before any federal, state, municipal or other governmental entity or regulatory body, or which challenges the validity of this Agreement or any action taken or to be taken by ITCI pursuant to this Agreement. As of the date hereof, ITCI is not subject to, nor is there in existence, any outstanding judgment, award, order, writ, injunction or decree of any court, governmental entity or regulatory body relating to ITCI.

(b) ITCI has no Liability (and there is no basis for any present or, to ITCI's knowledge, future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against ITCI giving rise to any Liability) arising out of any injury to individuals or property

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as a result of the ownership, possession, or use of any product developed, manufactured, sold, leased, or delivered by ITCI.

#### **4.12 Employee Benefit Plans.**

(a) ITCI has delivered to SSI copies of each Employee Benefit Plan that ITCI maintains or to which ITCI contributes. Each such Employee Benefit Plan (and each related trust, insurance contract, or fund) complies in form and in operation in all respects with the applicable requirements of ERISA, the Code, and other applicable laws. All required reports and descriptions have been filed or distributed appropriately with respect to each such Employee Benefit Plan. The requirements of Part 6 of Subtitle B of Title I of ERISA and of Code Section 4980B have been met with respect to each such Employee Benefit Plan which is an Employee Welfare Benefit Plan. All contributions which are due have been paid to each such Employee Benefit Plan which is an Employee Pension Benefit Plan and all contributions for any period ending on or before the Closing which are not yet due have been paid to each such Employee Pension Benefit Plan or accrued in accordance with the past custom and practice of ITCI. All premiums or other payments for all periods ending on or before the Closing have been paid with respect to each such Employee Benefit Plan which is an Employee Welfare Benefit Plan. Each such Employee Benefit Plan which is an Employee Pension Benefit Plan meets the requirements of a "qualified plan" under Code Section 401(a), has received, within the last two years, a favorable determination letter from the Internal Revenue Service, and has not received any notice of failure to comply with any applicable regulation of the Internal Revenue Service.

(b) With respect to each Employee Benefit Plan that ITCI maintains or ever has maintained or to which it contributes, ever has contributed, or ever has been required to contribute:

(i) No such Employee Benefit Plan which is an Employee Pension Benefit Plan (other than any Multiemployer Plan) has been completely or partially terminated or been the subject of a reportable event as to which notices would be required to be filed with the PBGC. No proceeding by the PBGC to terminate any such Employee Pension Benefit Plan (other than any Multiemployer Plan) has been instituted or, to the knowledge of ITCI, threatened.

(ii) There have been no prohibited transactions with respect to any such Employee Benefit Plan. No fiduciary has any Liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any such Employee Benefit Plan. No action, suit, proceeding, hearing, or investigation with respect to the administration or the investment of the assets of any such Employee Benefit Plan (other than routine claims for benefits) is pending or, to the knowledge of ITCI, threatened. ITCI has no knowledge of any basis for any such action, suit, proceeding, hearing, or investigation.

(iii) ITCI has not incurred, and ITCI has no reason to expect that it will incur, any Liability to the PBGC (other than PBGC premium payments) or otherwise under Title IV

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of ERISA (including any withdrawal Liability) or under the Code with respect to any such Employee Benefit Plan which is an Employee Pension Benefit Plan.

(c) ITCI does not contribute to and never has been required to contribute to any Multiemployer Plan, and ITCI has no Liability (including withdrawal Liability) under any Multiemployer Plan.

(d) ITCI does not maintain or contribute to and has never has been required to maintain or contribute to any Employee Welfare Benefit Plan providing medical, health, or life insurance or other welfare type benefits for current or future retired or terminated employees, their spouses, or their dependents (other than in accordance with Code Section 4980B).

(e) ITCI does not have and has never had an ERISA Affiliate. For this purpose, an ERISA Affiliate is any trade or business the employees of which, together with the employees of ITCI, would be treated as employed by a single employer under sections 414(b), (c), (m) or (o) of the Code.

(f) Each Employee Benefit Plan and Benefit Arrangement (defined in Section 3.17) may be terminated or amended by the plan sponsor, in any manner and at any time, without the consent of and without any further liability for benefits that may be accrued or expenses that may be incurred after the date of such termination or amendment.

(g) No Employee Benefit Plan or Benefit Arrangement has any provision that would prohibit the transactions contemplated by this Agreement, or give rise to any severance, termination or other payments or liabilities (including without limitation any acceleration in benefits, vesting or distribution) as a result of the transactions contemplated by this Agreement. No payment that is owed or may become due any director, officer, employee, or agent of ITCI in connection with an Employee Benefit Plan or Benefit Arrangement will be non-deductible to the payor under section 280G of the Code or will be subject to tax under section 4999 of the Code, nor will ITCI be required to "gross up" or otherwise compensate any person because of the imposition of any excise tax under section 4999 of the Code.

(h) ITCI has no knowledge of any oral or written statement made by ITCI or any officer, employee or agent thereof, regarding any Employee Benefit Plan or Benefit Arrangement that was not in accordance with the provisions of that plan and that could have a material adverse economic consequence to ITCI.

#### 4.13 Contracts.

(a) ITCI has disclosed to SSI the following Contracts, whether written or oral, to which ITCI is a party:

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(i) any Contract (or group of related Contracts) for the lease of personal property to or from any Person providing for lease payments in excess of \$20,000 per annum;

(ii) any Contract (or group of related Contract) for the purchase or sale of raw materials, commodities, supplies, products, or other personal property, or for the furnishing or receipt of services, the performance of which will extend over a period of more than one year, result in a loss to ITCI, or involve consideration in excess of \$20,000;

(iii) any Contract concerning a partnership or joint venture;

(iv) any Contract (or group of related Contracts) under which it has created, incurred, assumed, or guaranteed any indebtedness for borrowed money, or any capitalized lease obligation or under which it has imposed a Lien on any of its assets, tangible or intangible;

(v) any Contract concerning confidentiality or noncompetition;

(vi) any Contract with any of the shareholders of ITCI or their Affiliates;

(vii) any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance or other plan or arrangement for the benefit of its current or former directors, officers, and employees;

(viii) any Contract for the employment of any individual on a fulltime, parttime, consulting, or other basis providing annual compensation in excess of \$20,000 or providing severance benefits;

(ix) any Contract under which it has advanced or loaned any amount to any of its directors, officers, and employees outside the ordinary course of business;

(x) any Contract under which the consent of the other party thereto is required in connection with the assignment of such Contract in connection with the transaction contemplated hereby;

(xi) any Contract under which the consequences of a default or termination could have a Material Adverse Effect on ITCI; or

(xii) any other Contract (or group of related Contracts) the performance of which involves consideration in excess of \$20,000.

(b) ITCI has previously provided SSI access to true, correct and complete copies of all Contracts set forth in Section 3.13(a) (including, if any Contract has not been reduced to writing, a true, correct and complete written summary of the material terms thereof) (the "ITCI Material Contracts"). All ITCI Material Contracts have been duly authorized and delivered, are

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in full force and effect and constitute the valid and binding obligations of the respective parties thereto enforceable in accordance with their respective terms. As to the ITCI Material Contracts, (i) there are no existing material breaches or defaults by ITCI thereunder or, to the knowledge of ITCI, by the other parties to such ITCI Material Contracts, (ii) no event, act or omission has occurred or, as a result of the consummation of the transactions contemplated hereby, will occur which (with or without notice, lapse of time or the happening or occurrence of any other event) would result in a material default by ITCI thereunder or give cause for termination thereof; provided that insofar as the foregoing representation involves the actions or omissions of parties other than ITCI, it shall be limited to the knowledge of ITCI, (iii) none of them will result in any material loss to ITCI upon completion or performance thereof and (iv) none of the parties to ITCI Material Contracts have expressed an indication to ITCI of their intention to cancel, renegotiate or exercise or not exercise any option under any such Contracts.

#### 4.14 Intellectual Property.

(a) ITCI owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the businesses of ITCI as proposed to be conducted. ITCI taken all necessary action to maintain and protect each item of Intellectual Property that it owns or uses.

(b) To ITCI's knowledge, ITCI has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and ITCI has never received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that ITCI must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of ITCI, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of ITCI.

(c) To the knowledge of ITCI, ITCI will not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties as a result of the continued operation of its businesses as presently conducted and as presently proposed to be conducted.

#### 4.15 Labor Matters.

(a) SSI has been provided with true, complete and correct lists and copies (as applicable) of all employees of ITCI, indicating the date of hire, nature of position and current compensation level, together with all employment, severance, termination, consulting, bonus, profit sharing, percentage compensation, deferred compensation, stock purchase or stock option plans or other compensation plans, agreements, commitments or arrangements that ITCI has with all present or former directors, officers, employees, consultants or agents thereof or their Affiliates, excluding agreements and commitments terminable by ITCI on not more than thirty (30) days notice without Liability (the "Benefit Arrangements"). ITCI has not taken any action that could be deemed to

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trigger, and the consummation of the transactions contemplated hereby will not be deemed to trigger, any severance benefits under any of such Benefit Arrangements.

(b) ITCI is not a party to any collective bargaining agreements. There is no unfair labor practice or employment discrimination or other employment related complaint, grievance or proceeding against ITCI or against any Person with respect to any employee of SSI pending or, to the knowledge of ITCI, threatened before any court, the National Labor Relations Board or any federal, state, local or foreign governmental entity or regulatory body. To the knowledge of ITCI, there is no basis for any such complaint, grievance or proceeding.

(c) ITCI and its employees have complied with all applicable laws respecting employment and employment practices, terms and conditions of employment and wages and hours. ITCI has fully complied with all applicable provisions of COBRA and has no obligations with respect to any former employees qualifying as beneficiaries thereunder. ITCI enjoys satisfactory relations with its employees and agents.

**4.16 Insurance.** ITCI has delivered to SSI the following information with respect to each insurance policy (including policies providing property, casualty, liability, and workers' compensation coverage and bond and surety arrangements) to which ITCI is a party, a named insured, or otherwise the beneficiary of coverage:

- (a) the name, address, and telephone number of the agent;
- (b) the name of the insurer, the name of the policyholder, and the name of each covered insured; and
- (c) the policy number and the period of coverage.

With respect to each such insurance policy: (A) the policy is legal, valid, binding, enforceable, and in full force and effect; (B) ITCI has no reason to believe that the policy will not continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby; (C) neither ITCI nor, to the best of the knowledge of ITCI, any other party to the policy is in breach or default (including with respect to the payment of premiums or the giving of notices), and no event has occurred which, with notice or the lapse of time or both, would constitute such a breach or default, or permit termination, modification, or acceleration, under the policy; and (D) no party to the policy has repudiated any provision thereof. ITCI has been covered by insurance in scope and amount customary and reasonable for the businesses in which it has engaged. ITCI has not received any notice that any such insurance policy will not be renewed or that any such policy will be terminated as a result of the consummation of the transactions contemplated by this Agreement.

**4.17 Absence of Certain Business Practices.** To the best of ITCI's knowledge, neither ITCI, its directors, officers, employees or agents nor any other Person acting on its or their behalf

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has, directly or indirectly, within the past five (5) years given or agreed to give any gift or similar benefit to any customer, supplier, governmental employee or other Person who is or may be in a position to help or hinder the business of ITCI or assist ITCI in connection with any actual or proposed transaction which (i) might subject ITCI to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) might have had a Material Adverse Effect on ITCI if not given in the past or (iii) might materially adversely affect the condition (financial or otherwise), business, Assets, Liabilities, operations or prospects of ITCI or which might subject ITCI to suit or penalty in any private or governmental litigation or proceeding if not continued in the future.

**4.18 Finder's Fee.** There is no investment banker, broker, finder or other intermediary which has been retained by, or is authorized to act on behalf of ITCI or its Affiliates who might be entitled to any fee or commission from ITCI or its Affiliates upon the consummation of the transactions contemplated hereby or thereafter.

**4.19 Unimpaired Operation.** Assuming the receipt of all consents and approvals required for the consummation of the Merger, upon consummation of the transactions contemplated hereby, ITCI will be able to operate its business in the same manner as ITCI was operated immediately prior to the Merger.

**4.20 Accuracy of Representations.** The representations and warranties made by ITCI in this Agreement, and in any certificate or schedule referenced hereby or attached hereto, do not contain, and will not contain, any statement which is false or misleading with respect to any material fact and do not omit to state a material fact required to be stated herein or therein or necessary in order to make the statements contained herein or therein not materially false or misleading.

## **ARTICLE V** **COVENANTS**

**5.1 Conduct of Business.** From the date hereof to the Closing, unless consented to in writing, SSI and ITCI each shall:

- (i) conduct its business only in the ordinary course consistent with past practice;
- (ii) maintain and keep its Assets in good repair, working order and condition, except for ordinary wear and tear;
- (iii) use its best efforts to keep in full force and effect insurance comparable in amount and scope of coverage to that now maintained by it;
- (iv) perform in all material respects all of its obligations under all Contracts applicable to its business;

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- (v) use its best efforts to maintain and preserve its business organization intact, retain its present employees so that they will be available after the Closing, and maintain its relationships with its customers so that they will be preserved after the Closing;
- (vi) maintain its books of accounts and records in the usual and regular manner;
- (vii) use its best efforts to comply with all laws and regulations applicable to it and to the conduct of its business;
- (viii) not amend its Articles of Incorporation or Bylaws;
- (ix) not merge or consolidate with, or purchase substantially all of the assets of, or otherwise acquire, any Person;
- (x) not purchase or acquire any shares, warrants or options or make any capital expenditures not in the ordinary course of business consistent with past practice and in no event for an amount in excess of \$5,000 in any single transaction or series of related transactions;
- (xi) not incur any indebtedness for borrowed money or issue any debt securities other than pursuant to existing credit agreements incurred in the ordinary course of business consistent with past practice;
- (xii) not enter into any leases, except in the ordinary course of business;
- (xiii) not assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person except for items endorsed for collection;
- (xiv) promptly advise the other in writing of any material adverse change and any event (other than events generally known to the public) which would reasonably be expected to result in such a change;
- (xv) not issue or sell any shares of capital stock of any class or any option, warrant or other right, agreement or commitment of any kind obligating it, contingently or otherwise, to issue or sell any such shares or any securities convertible into or exchangeable for any such shares;
- (xvi) not sell, transfer or otherwise dispose of, or agree to sell, transfer or otherwise dispose of, any of its Assets, except in the ordinary course of business or mortgage or encumber its Assets;
- (xvii) not enter into any other Contracts, except Contracts for the purchase or sale of goods or services or licenses in the ordinary course of business consistent with past practice and

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not in excess of current requirements, or otherwise make any material change in the conduct of its business or operations;

(xviii) not pay, discharge or satisfy any Liability, other than the payment, discharge or satisfaction in the ordinary course of business of Liabilities reflected or reserved against in the Interim Balance Sheet or incurred in the ordinary course of business since the date of the Interim Balance Sheet;

(xix) not organize any subsidiary, acquire any capital stock or other equity securities of any Person or acquire any equity or ownership interest in any business;

(xx) not split, combine or reclassify any shares of its capital stock, declare, set aside or pay any dividend or other distribution (whether in cash, securities or property or any combination thereof) in respect of any class or series of its capital stock, or except as contemplated hereby, redeem or otherwise acquire any of its securities;

(xxi) not waive or amend any standstill or confidentiality agreement or waive any rights of substantial value; and

(xxii) take no action to impair its working capital or which may lead to a default in any agreement for borrowed money other than which may arise in the operation of its business in the ordinary course.

**5.2 Best Efforts.** From the date hereof to the Closing, subject to the terms and conditions herein provided, ITCI and SSI agree to use their respective best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations, including making all required submissions or filings with governmental entities and regulatory bodies, to consummate and make effective the transactions contemplated by this Agreement. If, at any time after the Closing, any further action is necessary or desirable to carry out the purposes of this Agreement, the parties hereto or their officers, directors or representatives shall take all such necessary action. ITCI and SSI will execute any additional instruments necessary to consummate the transactions contemplated hereby.

**5.3 Consents.** From the date hereof to the Closing, SSI and ITCI will use their best efforts to obtain all consents, approvals and waivers of third Persons or governmental entities or regulatory bodies required to consummate the Merger.

**5.4 Public Announcements.** From the date hereof to the Closing, SSI and ITCI will consult with one another before issuing any press release or otherwise making any public statement with respect to the transactions contemplated hereby and shall not issue any such press release or make any such public statement without the approval of one another.

**5.5 Continued Effectiveness of Representations and Warranties.** From the date hereof to the Closing, each of the parties shall use their respective best efforts to conduct such parties' affairs in such a manner so that, except as otherwise contemplated or permitted by this

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Agreement, the representations and warranties contained in Articles III and IV, as the case may be, shall continue to be true and correct on and as of the Closing as if made on the Closing, and the parties shall promptly notify the others of any event, condition or circumstance occurring from the date hereof to the Closing that would constitute a violation or breach by such party of any of such representations and warranties or that would cause any such representation or warranty not to be accurate in all material respects at the Closing.

**5.6 Expenses.** Except as otherwise provided herein, whether or not the transactions contemplated hereby are consummated, all expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be the obligation of the party incurring such expenses. Fees and expenses of Duane, Morris & Heckscher LLP shall be paid one half by SSI and one half by ITCI.

#### **ARTICLE VI**

#### **CONDITIONS OF ALL PARTIES TO CONSUMMATION OF THE MERGER**

The respective obligations of each party to effect the Merger are subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

**6.1 Approval.** This Agreement shall have been approved and adopted by the requisite affirmative vote or written consent of the shareholders of SSI and ITCI in accordance with applicable law.

**6.2 No Conflict.** No statute, rule, regulation, executive order, decree, judgment or injunction shall have been enacted, entered, promulgated or be in force by any court or governmental authority which prohibits or restricts the consummation of the Merger; provided, however, that the parties hereto shall use their best efforts to have any such order, decree or injunction vacated.

#### **ARTICLE VII**

#### **CONDITIONS PRECEDENT TO ITCI'S PERFORMANCE**

The obligations of ITCI under this Agreement are subject to the following conditions which may be waived in whole or in part by ITCI at its election:

**7.1 Bring Down of Representations and Warranties.** The representations and warranties of SSI in this Agreement shall be true and correct in all material respects on the date hereof and shall also be true and correct in all material respects on and as at the Closing with the same force and effect as if made on and as of the Closing, and SSI shall have performed or complied in all material respects with all agreements, conditions and covenants required by this Agreement to be performed or complied with by it on or before the Closing. ITCI shall have received a certificate of the President of SSI to the foregoing effect.

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**7.2 Authority.** ITCI shall have received all documents it may reasonably request relating to the existence of SSI and the authority of SSI to enter into this Agreement and to consummate the transactions contemplated hereby.

**7.3 Secretary's Certificate.** SSI shall have delivered to ITCI a certificate of the Secretary of SSI certifying that (i) the resolutions of the Board of Directors of SSI authorizing the transactions contemplated hereby have not been revoked, suspended or amended and remain in full force and effect, and (ii) this Agreement has been approved and adopted by not less than a majority of the shareholders of SSI of each class entitled to vote on the Merger.

**7.4 Consents.** SSI shall have obtained all approvals, authorizations and consents required to consummate the transactions contemplated hereby.

**7.5 Injunction.** There shall be no effective injunction, writ or preliminary restraining order of any nature issued by a court or governmental agency of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

**7.6 Current Assets.** On the Effective Date, the sum of SSI's (i) cash on hand, (ii) accounts receivable not more than 90 days past due, and (iii) \$91,600 representing a credit for work in process, shall exceed SSI's balance sheet liabilities by not less than \$250,000 (and SSI may pay compensation to the SSI Shareholders to the extent of such surplus).

#### **ARTICLE VIII** **CONDITIONS PRECEDENT TO SSI'S PERFORMANCE**

The obligations of SSI under this Agreement are subject to the following conditions which may be waived in whole or in part by SSI at its election:

**8.1 Bring Down of Representations and Warranties.** The representations and warranties of ITCI contained in this Agreement shall be true and correct in all material respects on the date hereof and shall also be true and correct in all material respects on and as at the Closing with the same force and effect as if made on and as of the Closing, and ITCI shall have performed or complied in all material respects with all agreements, conditions and covenants required by this Agreement to be performed or complied with by them on or before the Closing. SSI shall have received a certificate of the President of ITCI to the foregoing effect.

**8.2 Authority.** SSI shall have received all other documents it may reasonably request relating to the existence of ITCI and the authority of ITCI to enter into this Agreement and to consummate the transactions contemplated hereby.

**8.3 Secretary's Certificate.** ITCI shall have delivered to SSI a certificate of the Secretary of ITCI certifying to the resolutions of the Board of Directors of ITCI authorizing the transactions contemplated hereby and certifying that such resolutions have not been revoked, suspended or amended and remain in full force and effect.

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8.4 **Consents.** All approvals, authorizations and consents required by ITCI to consummate the transactions contemplated hereby shall have been obtained.

8.5 **Injunction.** There shall be no effective injunction, writ or preliminary restraining order of any nature issued by a court or governmental agency of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

8.6 **Current Assets.** On the Effective Date, the sum of ITCI's (i) cash on hand, and (ii) accounts receivable not more than 90 days past due, shall exceed ITCI's balance sheet liabilities by not less than \$250,000 (and ITCI may pay compensation to the ITCI Shareholders to the extent of such surplus).

**ARTICLE IX**  
**NATURE AND SURVIVAL OF REPRESENTATIONS,**  
**WARRANTIES AND COVENANTS; INDEMNIFICATION**

9.1 **Nature and Survival of Representations and Warranties.** All statements contained herein or in any certificate, schedule or other document referenced in this Agreement shall be deemed representations and warranties by the party(s) delivering the same. All representations and warranties shall survive the Closing for a period of two years following the Closing; provided, however, that the representations and warranties contained in Sections 3.9, 3.12, 4.9 and 4.12 shall survive until the expiration of the applicable statute of limitations. All covenants and agreements shall survive the consummation of the transactions contemplated hereby.

9.2 **Indemnification.**

(a) **Indemnification by SSI Shareholders.** Subject to Section 9.1 and the limitations set forth below, the SSI Shareholders shall jointly and severally indemnify and hold harmless the Surviving Corporation and the ITCI Shareholders against losses (including any and all costs, expenses, liabilities, judgments, assessments or penalties and reasonable attorneys' fees and disbursements relating thereto) (the "**Losses**") suffered or incurred by the Surviving Corporation or the ITCI Shareholders resulting from or arising out of (i) the inaccuracy or breach of any representation, warranty or covenant of SSI or the SSI Shareholders contained in this Agreement or in any Schedule or Certificate delivered by them pursuant to this Agreement, and (ii) any professional liability claims against the Surviving Corporation not covered by insurance which arose out of operations of SSI prior to the Closing. The Surviving Corporation and the ITCI Shareholders shall not be entitled to indemnification on account of any Losses unless the aggregate of Losses shall exceed \$10,000 (the "**Threshold Amount**"), but the Surviving Corporation and the ITCI Shareholders shall be entitled to recover all Losses if Losses exceed \$10,000 in the aggregate.

(b) **Indemnification by ITCI Shareholders.** Subject to Section 9.1 and the limitations set forth below, the ITCI Shareholders shall jointly and severally indemnify and hold harmless the Surviving Corporation and the SSI Shareholders against Losses suffered or incurred

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by the Surviving Corporation or the SSI Shareholders resulting from or arising out of (i) the inaccuracy or breach of any representation, warranty or covenant of ITCI or the ITCI Shareholders contained in this Agreement or in any Schedule or Certificate delivered by them pursuant to this Agreement, and (ii) any professional liability claims against the Surviving Corporation not covered by insurance which arose out of operations of ITCI prior to the Closing. The Surviving Corporation and the SSI Shareholders shall not be entitled to indemnification on account of any Losses unless the aggregate of Losses shall exceed the Threshold Amount, but the Surviving Corporation and the SSI Shareholders shall be entitled to recover all Losses if Losses exceed \$10,000 in the aggregate.

(c) **Indemnification Procedure.** If any such claim, action, suit, proceeding or investigation is brought against any Indemnified Party (whether arising before or after the Closing), (a) the Indemnifying Party shall assume the defense thereof, including the employment of counsel satisfactory to it and the Indemnified Party, (b) the Indemnifying Party shall pay all fees and expenses of such counsel promptly as statements therefor are received, and (c) the Indemnified Party will use its best efforts to assist in the vigorous defense of any such matter, provided that no Indemnifying Party shall be liable for any such settlement effected without its written consent, which consent, however, shall not be unreasonably withheld. Any Indemnified Party wishing to claim indemnification under this Section 9.2, upon learning of any such claim, action, suit, proceeding or investigation, shall notify the appropriate Indemnifying Party thereof and shall deliver to such Indemnifying Party an undertaking to repay any amounts advanced pursuant hereto when and if a court of competent jurisdiction shall ultimately determine, after exhaustion of all avenues of appeal, that such Indemnified Party was not entitled to indemnification under this Section. The Indemnified Parties as a group may, at the Indemnifying Party's expense, retain one law firm in each jurisdiction to represent them with respect to any such matter in which there is, under applicable standards of professional conduct, a conflict on any significant issue between the positions of the Indemnified Parties and the Indemnifying Party. Any Indemnified Party may, at the Indemnifying Party's expense, retain separate counsel in each jurisdiction to represent it with respect to any matter in which there is under applicable standards of professional conduct, a conflict on any significant issue between the positions of any two or more Indemnified Parties. This Section 9 shall survive the consummation of the Merger.

(d) **Arbitration.** All disputes arising under Section 9.2(a), 9.2(b) and 9.2(c) between the parties which are not resolved by means of direct negotiations between them shall be finally settled by arbitration in accordance with this Section 9.2(d). The arbitration shall be held in or around Miami, Florida and shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association (AAA) by one arbitrator, appointed by consent of the Indemnifying Party and the Indemnified Party, which consent shall not be unreasonably withheld or delayed. If the parties cannot agree upon an arbitrator, either may apply to the AAA to appoint one. The arbitrator shall resolve the dispute within 60 days after the dispute is submitted to him. Any decision by the arbitrator shall be binding upon the parties and may be entered as a final judgment in any court having jurisdiction. The cost of any arbitration proceeding shall be borne by the parties as the arbitrator shall determine if the parties have not otherwise agreed. The arbitrator shall render his final decision in writing to the parties, which decision shall explain the reasons therefor.

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(e) **Third Party Claims.** If any claim is made or an action is brought against the Surviving Corporation for which indemnification from the SSI Shareholders or the ITCI Shareholders is available under this Agreement, the Surviving Corporation shall notify the Indemnifying Party promptly in writing upon the receipt of notice of such claim or summons, as the case may be, the Indemnifying Parties may at their option thereafter assume the defense thereof with counsel reasonably acceptable to the Surviving Corporation which fees and expenses of defense shall be charged to and paid by the Indemnifying Party, provided that the Surviving Corporation may continue to participate in (but not control) the defense and disposition of such claim or action at its expense. The Surviving Corporation shall cooperate with the Indemnifying Party in the defense of such claim or action, and no settlement of such claim or action which does not involve a total release of the Surviving Corporation from such claim or action shall be made by the Indemnifying Party without the Surviving Corporation's approval, which shall not be unreasonably withheld.

**ARTICLE X**  
**TERMINATION; AMENDMENT; WAIVER**

**10.1 Termination.** This Agreement and the transactions contemplated hereby may be terminated at any time prior to the Closing:

- (a) by mutual written agreement of SSI and ITCI;
- (b) by SSI or ITCI, as the case may be, if the Closing shall not have occurred on or before March 31, 2001, so long as the party terminating this Agreement pursuant to this Section 10.1 has not made any material misrepresentation or materially breached a covenant, agreement or warranty contained herein;
- (c) by SSI, on the one hand, or ITCI, on the other hand, if (i) the transactions contemplated hereby shall violate any non-appealable final order, decree or judgment of any court or governmental entity or regulatory body having competent jurisdiction or (ii) there shall be a statute, rule or regulation which makes the transactions contemplated hereby illegal or otherwise prohibited; or
- (d) by SSI, on the one hand, and ITCI, on the other hand, in the event the other makes a material misrepresentation or breaches a covenant, agreement or warranty set forth in this Agreement, but such non-misrepresenting or non-breaching party's election to terminate shall not limit, waive or prejudice such party's remedies at law or in equity.

In the event this Agreement is terminated as provided in Section 10.1(a), (b) or (c), this Agreement shall become void and of no further force and effect and no party hereto shall have any further liability to any other party hereto.

**10.2 Amendment.** This Agreement may be amended by action taken by SSI and ITCI at any time before or after adoption of this Agreement by the shareholders but, after any such approval, no amendment shall be made to this Agreement without the approval of the shareholders which

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decreases the Merger Price, alters or changes any term of the Articles of Incorporation of the Surviving Corporation, or which alters or changes any of the terms and conditions of this Agreement if such alteration or change would adversely affect the rights of ITCT'S or SSI's shareholders hereunder. This Agreement may not be amended except by an instrument in writing signed by or on behalf of SSI and ITCT.

**10.3 Extension; Waiver.** At any time prior to the Effective Time, SSI and ITCT may (i) waive any inaccuracies in the representations and warranties contained herein or in any document, certificate or writing delivered pursuant hereto or thereto; and (ii) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of any party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed by or on behalf of such party.

#### **ARTICLE XI** **DEFINITIONS**

When used herein, the following terms shall have the meanings set forth below:

"Affiliate" means, with respect to any given Person, any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Assets" means all properties, assets, contracts, business, goodwill and rights of the corporation as a going concern, of every kind, nature, character and description, tangible and intangible, wherever located and whether or not carried or reflected on the books and records of the corporation on the Closing.

"Articles of Merger" shall have the meaning set forth in Section 1.2.

"Certificates" shall have the meaning set forth in Section 2.1.

"Common Stock" shall have the meaning set forth in Section 1.7.

"Closing" shall have the meaning set forth in Section 1.2.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Contract" means any contract, agreement, lease, license, arrangement, commitment, sales order, purchase order or any claim or right or any benefit or obligation arising thereunder or resulting therefrom and currently in effect, whether oral or written.

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**"Dissenting Shares"** shall have the meaning set forth in Section 2.1(e).

**"Effective Time"** shall have the meaning set forth in Section 1.2.

**"Employee Benefit Plan"** means any (i) nonqualified deferred compensation or retirement plan or arrangement which is an Employee Pension Benefit Plan, (ii) qualified defined contribution retirement plan or arrangement which is an Employee Pension Benefit Plan, (iii) qualified defined benefit retirement plan or arrangement which is an Employee Pension Benefit Plan (including any Multiemployer Plan), or (iv) Employee Welfare Benefit Plan or material fringe benefit plan or program.

**"Employee Pension Benefit Plan"** has the meaning set forth in ERISA Section 3(2).

**"Employee Welfare Benefit Plan"** has the meaning set forth in ERISA Section 3(1).

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

**"GAAP"** shall mean generally accepted accounting principles in the United States as of the date of this Agreement consistently applied.

**"Intellectual Property"** means any and all (i) inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations in part, revisions, extensions, and reexaminations thereof, (ii) trademarks, service marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) copyrightable works, whether or not registered, all copyrights, and all applications, registrations, and renewals in connection therewith, (iv) mask works and all applications, registrations, and renewals in connection therewith, (v) trade secrets and confidential business information (including ideas, research and development, knowhow, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, blueprints, sketches, storyboards, models, engineering drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (vi) computer software (including data and related documentation), (vii) other proprietary rights and Know-how, (viii) copies and tangible embodiments thereof (in whatever form or medium) and (ix) licenses and sublicenses granted and obtained with respect thereto, and rights thereunder.

**"Know-how"** means any and all technical knowledge, proprietary rights, patented or unpatented inventions, trade secrets, analytical methodology, processes, data and all other information or experience possessed by the corporation, or which the corporation has the right to use.

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**"Liabilities"** means any direct or indirect liability, indebtedness, claim, loss, damage, deficiency, obligation or responsibility, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, accrued, absolute, known or unknown, contingent or otherwise.

**"Lien"** means any mortgage, lien, pledge, charge, security interest, license, lease, claim, restriction, option, conditional sale or installment Contract or encumbrance of any kind.

**"Material Adverse Effect"** shall have the meanings set forth in Sections 3.4(a) and 4.4(a).

**"Material Contracts"** shall have the meaning set forth in Sections 3.13(b) and 4.13(b).

**"Merger"** shall have the meaning set forth in the Recitals.

**"Merger Consideration"** shall have the meaning set forth in Section 1.7.

**"Multiemployer Plan"** has the meaning set forth in ERISA Section 3(37).

**"Person"** shall include an individual, a partnership, a corporation, or a division or business unit thereof, a trust, an unincorporated organization, a government or any department or agency thereof and any other entity.

**"PBGC"** shall mean the Pension Benefit Guaranty Corporation.

**"Shares"** shall have the meaning set forth in Section 1.7.

**"Surviving Corporation"** shall have the meaning set forth in Section 1.1.

**"Tax" or "Taxes"** shall mean any and all federal, state, local, foreign and other taxes, levies, fees, imposts, duties and charges of whatever kind (including any interest, penalties or additions to the tax imposed in connection therewith or with respect thereto), whether or not imposed on SSL, including, without limitation, taxes, imposed on, or measured by, income, franchise, profits, or gross receipts, and also ad valorem, value added, sales, use, service, real or personal property, capital stock, license, payroll, withholding, employment, social security, workers' compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premium, windfall profits, transfer, and gains taxes, and customs duties.

**"Tax Return"** shall mean returns, reports, information statements, and other documentation (including any additional or supporting material) filed or maintained, or required to be filed or maintained, in connection with the calculation, determination, assessment or collection of any Tax.

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**ARTICLE XII  
MISCELLANEOUS**

**12.1 Entire Agreement; Assignment.** This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, among the parties or between any of them with respect to the subject matter hereof. All references to Sections shall be deemed references to such parts of this Agreement unless the context requires otherwise. This Agreement shall not be assigned by operation of law or otherwise.

**12.2 Validity; Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect unless such unenforceability causes this Agreement to fail in its essential purpose.

**12.3 Notices.** All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be delivered by telecopy with a copy via overnight courier to the respective parties as follows:

If to SSI:

Michael S. Herman  
140 Castania Avenue  
Coral Gables, Florida 33146

Peter L. Loundagin  
2276 E. Arapahoe Road  
Suite 228  
Littleton, Colorado 80122

If to ITCI:

Oliver R. Kramer  
8500 S.W. 149th Terrace  
Miami, Florida 33158

Alberto J. Rodriguez  
4230 S.W. 143rd Avenue  
Miami, Florida 33175

or to such other address as the Person to whom notice is given may have previously furnished to the others in writing in the manner set forth above. Notices shall be delivered on the date of telecopy provided that a copy of such telecopy is given via overnight courier.

**12.4 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to applicable principles of conflicts of laws thereof.

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**12.5 Descriptive Headings.** The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

**12.6 Parties in Interest.** This Agreement shall be binding upon and inure solely to the benefit of each party hereto, its successors and assigns.

**12.7 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

**12.8 Specific Performance.** Irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with the terms hereof, and the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

**12.9 Construction.** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation. Nothing in the Schedules shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Schedule identifies the exception with reasonable particularity and describes the relevant facts in reasonable detail.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, or individually, as the case may be, all as of the day and year first above written.

SUDDEN SOLUTIONS, INC.

By: Title: President

INFORMATION TECHNOLOGY CONSULTING, INC.

By: Title: President

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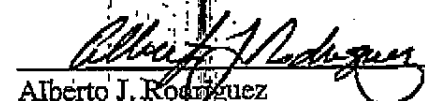
SSI SHAREHOLDERS:

  
Michael S. Herman

  
Peter L. Loundagin

ITCI SHAREHOLDERS:

  
Oliver R. Kramer

  
Alberto J. Rodriguez

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## EXHIBIT "A"

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
SOLUXIONS, INC.

(formerly known as Information Technology Consulting, Inc.)

ARTICLE 1.

The name of the Corporation is SOLUXIONS, INC.

ARTICLE 2.

The principal office/mailling address of the Corporation is:

7765 SW 87<sup>th</sup> Avenue, Suite 209  
Miami, Florida 33173ARTICLE 3.

The existence of the Corporation shall be perpetual, unless sooner dissolved.

ARTICLE 4.

The Corporation may engage in any and all businesses and activities permitted by the laws of the State of Florida. The Corporation shall have all of the powers vested in a corporation organized under and existing by virtue of such laws.

ARTICLE 5.

The aggregate number of shares which the Corporation shall have authority to issue is 5,000,000 shares of Common Stock, \$.001 par value per share; and

A description of the rights, voting powers, preferences, qualifications and restrictions granted to or imposed upon the shares of each class is as follows:

(1) Voting Rights of Shareholders: Each holder of shares of Common Stock shall be entitled to one vote for each share of stock standing in such shareholder's name on the Corporation's books. Shareholders shall be entitled to cumulative voting in the election of Directors of the Corporation.

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(2) Pre-emptive Rights. Each holder of any shares of the stock of the Corporation shall have a pre-emptive right to purchase, subscribe for, or otherwise acquire shares of stock of the Corporation of any class now or hereafter authorized, or any securities exchangeable for or convertible into such shares, or any warrants or other instruments evidencing rights or options to subscribe for, purchase or otherwise acquire shares.

ARTICLE 6.

The registered agent and street address of the registered office of the Corporation is:

Alberto J. Rodriguez  
Solutions, Inc.  
7765 S.W. 87th Avenue  
Suite 209  
Miami, Florida 33173

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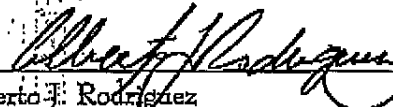
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## ACCEPTANCE OF REGISTERED AGENT

Having been named as registered agent and to accept service of process for the above-stated Corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Dated this 9<sup>th</sup> day of February, 2001.

  
Alberto J. Rodriguez  
Soluxions, Inc.  
7765 S.W. 87th Avenue  
Suite 209  
Miami, Florida 33173

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