Division of Corporations

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MERGER OR SHARE EXCHANGE

HIGHTOUCH TECHNOLOGIES, INC.

Certificate of Status	1
Certified Copy	1
Page Count	49
Estimated Charge	$87.50

Merger

Electronic Filing Menu Corporate Filing Public Access Help

12-23-99

DC

ARTICLES OF MERGER
Merger Sheet

MERGING:

HIGHTOUCH ACQUISITION, INC., a Florida corporation, P99000104676

INTO

HIGHTOUCH TECHNOLOGIES, INC., a Florida entity, P98000003858

File date: December 21, 1999

Corporate Specialist: Darlene Connell

December 22, 1999

HIGHTOUCH TECHNOLOGIES, INC. ****ATTN. VALERIE SEPPY
111 2ND AVENUE N.E.
SUITE 600
ST. PETERSBURG, FL 33701

SUBJECT: HIGHTOUCH TECHNOLOGIES, INC.
REF: P98000003858

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.

Section 607.1101(3)(a), Florida Statutes provides that a plan of merger may set forth amendments to, or a restatement of the articles of incorporation of the surviving corporation. Therefore, if the articles of incorporation of the merging corporation will become the articles of incorporation of the surviving corporation, please add an exhibit titled Restated Articles of Incorporation which include the provisions of the restated articles currently in effect for the surviving corporation. If the registered agent is also changing, the signature of the new agent is required, along with a statement that he/she is familiar with and accepts the obligations of the position.

The word "initial" or "first" should be removed from the article regarding directors, officers, and/or registered agent, unless these are the individuals originally designated at the time of incorporation.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6906.

Darlene Connell
Corporate Specialist

FAX Aud. #: H99000032705
Letter Number: 099A00059920

H99000032705 8

ARTICLES OF MERGER

Between

HIGHTOUCH ACQUISITION, INC.
(a Florida Corporation)

And

HIGHTOUCH TECHNOLOGIES, INC.
(a Florida Corporation)

FILED
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SECRETARY OF STATE
TALLAHASSEE FLORIDA

THESE ARTICLES OF MERGER (these "Articles") are made and entered into on this 21st day of December, 1999, by and between HighTouch Acquisition, Inc., a Florida corporation ("Merger Sub"), and HighTouch Technologies, Inc., a Florida corporation (the "Company").

WITNESSETH:

WHEREAS, Merger Sub is a corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, the Company is a corporation duly organized and existing under the laws of the State of Florida; and

WHEREAS, the Board of Directors of each of the constituent corporations deems it advisable that Merger Sub be merged with and into the Company on the terms and conditions hereinafter set forth, in accordance with the applicable provisions of the statutes of the State of Florida, which permits such merger.

NOW, THEREFORE, Merger Sub and the Company hereby state as follows:

ARTICLE I

Merger Sub and the Company have been and shall be merged into one another in accordance with applicable provisions of the laws of the State of Florida and pursuant to the Plan and Agreement of Merger attached hereto (without schedules and exhibits) as Exhibit A (the "Agreement"), with the Company being the surviving corporation.

ARTICLE II

The Plan Of Merger set forth in the Agreement was approved and adopted by the directors of the Company as of December 8, 1999 in the manner prescribed by the Florida

Business Corporation Act. The Plan Of Merger set forth in the Agreement was approved by the shareholders of the Company as of December 13, 1999 by less than unanimous written consent in the manner prescribed by Section 607.0704 of the Florida Business Corporation Act, and the number of votes cast in favor of such approval was sufficient for approval.

ARTICLE III

The Plan Of Merger set forth in the Agreement was approved and adopted by the directors of Merger Sub as of December 15, 1999 in the manner prescribed by the Florida Business Corporation Act. The Plan Of Merger set forth in the Agreement was approved by the shareholders of Merger Sub as of December 15, 1999 by unanimous written consent in the manner prescribed by Section 607.0704 of the Florida Business Corporation Act.

ARTICLE IV

The effective date of the Merger shall be the date of the proper filing of these Articles in accordance with the Florida Business Corporation Act.

ARTICLE V

The surviving entity shall be the Company (the "Surviving Entity"). The address of the Company within the State of Florida is 111 Second Avenue NE, Suite 600, St. Petersburg, Florida, 33701-3479.

The Articles of Incorporation of the Surviving Entity are hereby restated in their entirety in the form attached hereto as Exhibit B.

The Surviving Entity is deemed to have appointed the Secretary of State of Florida as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of the Florida Corporation.

The Surviving Entity agrees to promptly pay to any dissenting shareholders of the Company the amount, if any, to which he or she may be entitled under Section 607.1302 of the Florida Business Corporation Act.

[Signatures begin on the following page.]

IN WITNESS WHEREOF, HighTouch Acquisition and HighTouch, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors and shareholders, have caused these Articles of Merger to be executed by each party hereto, as of the date first set forth above.

HIGHTOUCH ACQUISITION, INC.

By: _____

Name: Simon B. Ruddick
Title: President

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HIGHTOUCH TECHNOLOGIES, INC.

By: _____

Name: William D. Lovell

Title: Vice President

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EXHIBIT A

AGREEMENT AND PLAN OF MERGER

among

KIPLING INVESTMENTS LABUAN LIMITED,

HIGHTOUCH ACQUISITION, INC.,

HIGHTOUCH TECHNOLOGIES, INC.,

JARED S. HECHTKOPF,

and

WILLIAM D. LOVELL

Dated as of December 21, 1999

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AGREEMENT AND PLAN OF MERGER dated as of December 21, 1999 (this "Agreement"), among KIPLING INVESTMENTS LABUAN LIMITED, a Malaysian corporation ("Parent"), HIGHTOUCH ACQUISITION, INC., a Florida corporation and a wholly owned subsidiary of Parent ("Merger Sub"), HIGHTOUCH TECHNOLOGIES, INC., a Florida corporation (the "Company"), JARED S. HECHTKOPF and WILLIAM D. LOVELL (each of Jared S. Hechtkopf and William D. Lovell being a "Management Shareholder").

WITNESSETH

WHEREAS, upon the terms and subject to the conditions of this Agreement and in accordance with the Florida Business Corporation Act (the "FBCA"), Parent and the Company will enter into a business combination transaction pursuant to which Merger Sub will merge with and into the Company (the "Merger");

WHEREAS, the Board of Directors of the Company (i) has determined that the Merger is consistent with and in furtherance of the long-term business strategy of the Company and fair to, advisable to and in the best interests of, the Company and its shareholders and has approved and adopted this Agreement, the Merger and the other transactions contemplated by this Agreement and (ii) has recommended the approval and adoption of this Agreement by the shareholders of the Company;

WHEREAS, certain shareholders of the Company own such number of shares of common stock, par value $.01 per share, of the Company ("Company Common Stock") and such number of shares of Series A Convertible Preferred Stock, par value $.01 per share (the "Company Preferred Stock" and, together with Company Common Stock, the "Company Stock") as is set forth on Exhibit A hereto (such shareholders being referred to herein as the "Principal Shareholders");

WHEREAS, as a condition and inducement to Parent's and Merger Sub's entering into this Agreement and incurring the obligations set forth herein, concurrently with the execution and delivery of this Agreement, Parent is entering into a Voting Agreement with the Principal Shareholders, dated the date hereof (the "Voting Agreement") and substantially in the form attached hereto as Exhibit B; and

WHEREAS, certain capitalized terms used in this Agreement are defined in Section 10.02 of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Parent, Merger Sub and the Company hereby agree as follows:

ARTICLE I

THE MERGER

SECTION 1.01. The Merger. Upon the terms and subject to the conditions set forth in Article VII, and in accordance with the FBCA, at the Effective Time (as defined in

Section 1.02), Merger Sub shall be merged with and into the Company. As a result of the Merger, the separate corporate existence of Merger Sub shall cease and the Company shall continue as the surviving corporation of the Merger (the "Surviving Corporation").

SECTION 1.02. Effective Time; Closing. As promptly as practicable and in no event later than the fifth business day following the satisfaction or, if permissible, waiver of the conditions set forth in Article VII (or such other date as may be agreed by each of the parties hereto), the parties hereto shall cause the Merger to be consummated by filing articles of merger (the "Articles of Merger") with the Secretary of State of the State of Florida in such form as is required by, and executed in accordance with, the relevant provisions of the FBCA. The term "Effective Time" means the date and time of the filing of the Articles of Merger with the Secretary of State of the State of Florida (or such later time as may be agreed by each of the parties hereto and specified in the Articles of Merger). Immediately prior to the filing of the Articles of Merger, a closing (the "Closing") will be held at the offices of Edwards & Angell, LLP, 250 Royal Palm Way, Suite 300, Palm Beach, Florida 33480 (or such other place as the parties may agree).

SECTION 1.03. 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 each of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, disabilities and duties of each of the Company and Merger Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

SECTION 1.04. Articles of Incorporation; By-Laws. (a) At the Effective Time, the Articles of Incorporation of Merger Sub, as restated in connection with the Merger, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided by law and such Articles of Incorporation;

(b) At the Effective Time, the By-Laws of Merger Sub, as in effect immediately prior to the Effective Time, shall be the By-Laws of the Surviving Corporation until thereafter amended as provided by law, the Articles of Incorporation of the Surviving Corporation and such By-Laws.

SECTION 1.05. Directors and Officers. The directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and By-Laws of the Surviving Corporation, and the officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed and qualified.

ARTICLE II

CONVERSION OF SECURITIES; EXCHANGE OF CERTIFICATES

SECTION 2.01. Conversion of Securities. (a) At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Sub, the Company or the holders of any of the following securities:

(i) each share of Company Stock issued and outstanding immediately prior to the Effective Time (other than any shares of Company Stock to be canceled pursuant to Section 2.01(a)(ii) and any Dissenting Shares (as defined in Section 2.04)) shall be converted into the right to receive, subject to and in accordance with Section 2.02, the following consideration (the "Merger Consideration"):

(A) the amount of cash determined by dividing (1) $15 million less the amount of any fees owed to CEA as a result of the transactions contemplated by this Agreement plus the aggregate exercise price of all Company warrants outstanding immediately prior to the Effective Time (such resulting amount being the "Aggregate Cash Consideration") by (2) the Fully Diluted Share Number (as defined below) (based upon the capitalization chart set forth in Section 3.03 of the Company Disclosure Schedule, the Merger Consideration will be $8.4752 per share of Company Stock as set forth in Schedule 2.01(a) attached hereto);

(ii) each share of Company Stock held in the treasury of the Company and each share of Company Stock owned by Parent or any direct or indirect wholly owned subsidiary of Parent or of the Company immediately prior to the Effective Time shall be cancelled and extinguished without any conversion thereof and no payment or distribution shall be made with respect thereto; and

(iii) each share of common stock, par value $0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation.

(b) "Fully Diluted Share Number" means the sum of (i) the number of shares of Company Common Stock issued and outstanding immediately prior to the Effective Time, (ii) the number of shares of Company Common Stock issuable upon conversion of all preferred stock of the Company issued and outstanding immediately prior to the Effective Time, and (iii) the number of shares of Company Common Stock issuable upon exercise, conversion or exchange of all warrants, notes or other securities issued and outstanding immediately prior to the Effective Time that are exercisable, convertible or exchangeable for shares of Company Common Stock (other than Company Common Stock issuable upon exercise or conversion of Company Preferred Stock or Company Stock Options or Company Convertible Notes).

SECTION 2.02. Exchange of Certificates. (a) Exchange Procedures. At any time after the Effective Time, a holder of record of a certificate or certificates which immediately

prior to the Effective Time represented outstanding shares of Company Stock ("Company Share Certificates") that were converted into the right to receive Merger Consideration pursuant to Section 2.01 may surrender Company Share Certificates to Parent.

(b) Upon surrender of a Company Share Certificate for cancellation to Parent, together with such other documents as may reasonably be required by Parent:

(i) the holder of such Company Share Certificate shall be entitled to receive in exchange therefor an amount of cash by check or wire transfer equal to the amount of cash that such holder has the right to receive pursuant to the provisions of this Article II (after taking into account all shares of Company Stock then held by such holder), less, in the case of the Management Shareholders, 25% of that amount, which represents the amount of cash that is to be placed in escrow with respect to such Company Share Certificate in accordance with Section 2.02(b) below; and

(ii) the Company Share Certificate so surrendered shall forthwith be cancelled.

In the event of a transfer of ownership of shares of Company Stock that is not registered in the transfer records of Parent, the applicable Merger Consideration may be issued to a Person other than the Person in whose name the Company Share Certificate so surrendered is registered if the Company Share Certificate representing such shares of Company Stock is presented to Parent, accompanied by all documents required to evidence and effect such transfer and evidence that any applicable stock transfer taxes have been paid.

Until surrendered as contemplated by this Article II, each Company Share Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon surrender the applicable Merger Consideration with respect to the shares of Company Stock formerly represented thereby to which such holder is entitled pursuant to Section 2.01.

(c) Escrow Fund. At the Effective Time, on behalf of the Management Shareholders, Parent shall deposit into an escrow account (the cash so deposited being the "Cash Escrow Fund") to be maintained by an escrow agent (the "Escrow Agent") in accordance with the terms of an escrow agreement substantially in form of Exhibit 2.02(b) attached hereto (the "Cash Escrow Agreement"), the amount of cash equal to 25% of the aggregate Merger Consideration to which the Management Shareholders are entitled pursuant to Section 2.01. The portion of the Cash Escrow Fund contributed on behalf of each holder of Company Stock shall be in proportion to the aggregate amount of cash that such holder would otherwise be entitled to receive under Section 2.01 by virtue of ownership of outstanding shares of Company Stock.

(d) No Further Rights in Company Stock. All cash issued upon conversion of shares of Company Stock in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Company Stock.

(e) No Liability. Neither Parent nor the Surviving Corporation shall be liable to any holder of shares of Company Stock for any such shares of Company Stock (or dividends

or distributions with respect thereto), or cash properly and legally delivered to a public official pursuant to any abandoned property, escheat or similar law.

(f) Withholding Rights. Each of the Surviving Corporation and Parent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of shares of Company Stock such amounts as it is required to deduct and withhold with respect to the making of such payment under the United States Internal Revenue Code of 1986, as amended (the "Code"), or any provision of state, local or foreign tax law. To the extent that amounts are so withheld by the Surviving Corporation or Parent, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the shares of Company Stock in respect of which such deduction and withholding was made by the Surviving Corporation or Parent, as the case may be.

(g) Lost Certificates. If any Company Share Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Company Share Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such person of a bond, in such reasonable amount as the Surviving Corporation may direct, as indemnity against any claim that may be made against it with respect to such Company Share Certificate, Parent shall issue in exchange for such lost, stolen or destroyed Company Share Certificate, the Merger Consideration to which such person is entitled pursuant to the provisions of this Article II.

SECTION 2.03. Stock Options, Warrants and Convertible Notes

(a) Company Stock Options. Each stock option (each a "Company Stock Option") issued pursuant to the Company's 1999 Stock Option Plan (the "Company Stock Option Plan") that is outstanding at the Effective Time shall remain outstanding after the Effective Time and, subject to the provisions of such Company Stock Options governing the forfeiture of unvested Company Stock Options following a termination of employment or service, shall not be altered in any way by the transactions contemplated hereby.

(b) Warrants. Immediately prior to the Effective Time, each outstanding warrant issued by the Company (each, a "Company Warrant"), whether or not then exercisable, shall be cancelled by the Company, and each holder of a cancelled Company Warrant shall be entitled to receive at the Effective Time or as soon as practicable thereafter from the Company in consideration for the cancellation of such Company Warrant an amount in cash (less applicable withholding taxes) equal to the product of (i) the number of shares of Company Common Stock previously subject to such Company Warrant and (ii) the excess, if any, of the Merger Consideration over the exercise price per share of Company Common Stock previously subject to such Company Warrant.

(c) Convertible Notes. Each convertible promissory note of the Company, dated August 26, 1999 (the "Company Convertible Notes") that is outstanding at the Effective Time shall remain outstanding after the Effective Time.

SECTION 2.04. Dissenting Shares. (a) Notwithstanding any provision of this Agreement to the contrary, shares of Company Stock that are outstanding immediately prior to

the Effective Time and which are held by shareholders who shall have not voted in favor of the Merger or consented thereto in writing and who shall have demanded properly in writing appraisal for such shares of Company Stock in accordance with Section 607.1320 of the FBCA (collectively, the "Dissenting Shares") shall not be converted into or represent the right to receive the Merger Consideration. Such shareholders shall be entitled to receive payment of the appraised value of such shares of Company Stock held by them in accordance with the provisions of such Section 607.1320, except that all Dissenting Shares held by shareholders who shall have failed to perfect or who effectively shall have withdrawn or lost their rights to appraisal of such shares of Company Stock under such Section 607.1320 shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the Merger Consideration, without any interest thereon, upon surrender, in the manner provided in Section 2.02, of the certificate or certificates that formerly evidenced such shares of Company Stock.

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

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the Disclosure Schedule delivered by the Company to Parent and Merger Sub concurrently with the execution of this Agreement (the "Company Disclosure Schedule") which is incorporated into this Agreement by reference and which provides an exception to or otherwise qualifies the representations or warranties of the Company set forth in this Agreement, the Company hereby represents and warrants to Parent and Merger Sub that:

SECTION 3.01. Organization and Qualification. The Company is a corporation duly incorporated, under the laws of Florida and its status is active and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted, except where the failure to be so duly incorporated and active or to have such corporate power and authority have not had, and could not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect (as defined below). The term "Company Material Adverse Effect" means any change in or effect on the business of the Company that is materially adverse to the business, condition (financial or otherwise), assets, liabilities or results of operations of the Company taken as a whole, except for any such changes or effects resulting from or arising in connection with any changes in general economic, regulatory or political conditions. The Company does not own, of record or beneficially, any direct or indirect equity or other interest, or any right (contingent or otherwise) to acquire the same, in any corporation, partnership, joint venture, association or other entity. The Company is

not a member of (nor is any part of the Company's business conducted through) any partnership, nor is the Company a participant in any joint venture or similar arrangement.

SECTION 3.02. Articles of Incorporation and By-Laws. The Company has heretofore made available to Parent a complete and correct copy of the Articles of Incorporation and the By-Laws of the Company. Such Articles of Incorporation and By-Laws are in full force and effect. The Company is not in material violation of any of the provisions of its Articles of Incorporation or By-Laws.

SECTION 3.03. Capitalization. The authorized capital stock of the Company consists of (a) 3,000,000 shares of Company Common Stock and (b) 511,176 shares of Company Preferred Stock. As of the date hereof, (i) 1,000,000 shares of Company Common Stock are issued and outstanding, all of which are validly issued, fully paid and nonassessable, (ii) no shares of Company Common Stock are held in the treasury of the Company, (iii) 256,845 shares of Company Stock are reserved for future issuance pursuant to the Company Stock Option Plan, and (iv) 511,176 shares of Company Common Stock are reserved for future issuance upon conversion of preferred stock of the Company. As of the date of this Agreement, 505,884 shares of Company Preferred Stock are issued and outstanding, all of which are validly issued, fully paid and non-assessable and which are currently, and as of the Effective Time will be, convertible into 505,884 shares of Company Common Stock. There are no other shares of preferred stock of the Company outstanding. Except for the Company Stock Options granted pursuant to the Company Stock Option Plan, Company Warrants, the Company Convertible Notes and the issuance of up to 505,884 shares of Company Common Stock upon the conversion of outstanding Company Preferred Stock, there are no options, warrants or other rights, agreements, arrangements or commitments of any character obligating the Company to issue or sell any shares of capital stock of, or other equity interests in, the Company. All shares of Company Common Stock subject to issuance as aforesaid, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, will be duly authorized, validly issued, fully paid and nonassessable. Except for the Put Agreements, there are no outstanding contractual obligations of the Company to repurchase, redeem or otherwise acquire any shares of Company Stock. There are no material outstanding contractual obligations of the Company to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) to any other person. Other than in the ordinary course of business, the Company has not agreed to sell any of its assets or capital stock to any Person or to enter into any merger, business combination or other extraordinary transaction with any Person and, to the knowledge of the Company, no shareholder of the Company has agreed to any of the foregoing (except pursuant to the Voting Agreement). The holders of Company Stock Options and Company Warrants have been or will be given, or shall have properly waived, any required notice of the Merger prior thereto. As of the date hereof, the outstanding shares of Company Common Stock and Company Preferred Stock, and the outstanding Company Warrants and Company Convertible Notes are owned as set forth in Section 3.03 of the Company Disclosure Schedule.

SECTION 3.04. Authority Relative to This Agreement. The Company has all necessary corporate power and authority to execute and deliver this Agreement, and, subject to obtaining the necessary approvals of the Company's shareholders, to perform its obligations hereunder and to consummate the Merger and the other transactions contemplated by this

Agreement. The execution and delivery of this Agreement by the Company and the consummation by the Company of the Merger and the other transactions contemplated by this Agreement have been duly and validly authorized by all necessary corporate action and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or to consummate the Merger and the other transactions contemplated by this Agreement (other than the approval of this Agreement and the Merger by the holders of at least a majority of the outstanding shares of Company Common Stock and Company Preferred Stock voting together and by the holders of at least 67% of the outstanding shares of Company Preferred Stock (collectively, the "Shareholder Approval") and the filing and recordation of appropriate merger documents as required by the FBCA). This Agreement has been duly and validly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Parent and Merger Sub and subject to obtaining the Shareholder Approval, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity.

SECTION 3.05. No Conflict; Required Filings and Consents. (a) The execution and delivery of this Agreement by the Company do not, and the performance of this Agreement by the Company will not, (i) conflict with or violate the Articles of Incorporation or By-Laws of the Company, (ii) assuming that the Shareholder Approval has been obtained and assuming that all consents, approvals, authorizations and other actions described in Section 3.05(b) have been obtained and all filings and obligations described in Section 3.05(b) have been made, conflict with or violate in any material respect any foreign or domestic law, statute, ordinance, rule, regulation, order, judgment or decree ("Law") applicable to the Company or by which any property or asset of the Company is bound or affected, 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 right of termination, amendment, acceleration or cancellation of, or result in the creation of a lien or other encumbrance on any property or asset of the Company pursuant to, any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation, except, with respect to clause (iii), for any such conflicts, violations, breaches, defaults or other occurrences that could not reasonably be expected, individually or in the aggregate, to have a Company Material Adverse Effect or prevent or materially delay the consummation of the transactions contemplated by this Agreement.

(b) The execution and delivery of this Agreement by the Company do not, and the performance of this Agreement by the Company will not, require any consent, approval, authorization or permit of, or filing with or notification to, any domestic or foreign governmental or regulatory authority ("Governmental Entity"), except (i) for the filing and recordation of appropriate merger documents as required by the FBCA, (ii) the notices to the Company's shareholders contemplated in Section 6.01 or in connection with dissenters' rights of shareholders under the FBCA and (iii) where failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications could not reasonably be expected, individually or in the aggregate, to have a Company Material Adverse Effect or prevent or materially delay the consummation of the transactions contemplated by this Agreement.

SECTION 3.06. Permits; Compliance. (a) The Company is in possession of all material franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals and orders of any Governmental Entity necessary for the Company to own, lease and operate its properties or to carry on its business as it is now being conducted (the "Company Permits"), and, as of the date of this Agreement, no suspension or cancellation of any of the Company Permits is pending or, to the knowledge of the Company, threatened.

(b) The Company is not in conflict with, or in default or violation of, in each case, in any material respect, (i) any Law applicable to the Company or by which any material property or asset of the Company is bound or affected, (ii) any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which the Company is a party or by which the Company or any material property or asset of the Company is bound or affected or (iii) any Company Permits.

SECTION 3.07. Financial Statements. (a) True and complete copies of (i) the unaudited consolidated balance sheet of the Company as of March 31, 1999, and the related unaudited statements of income, changes in stockholders' equity and cash flows for the year ended March 31, 1999, together with all related notes and schedules thereto (collectively referred to herein as the "1999 Financial Statements"), and (ii) the unaudited consolidated balance sheet of the Company as of September 30, 1999 (the "Reference Balance Sheet"), and the related statements of income and cash flows of the Company for the six (6) months ended September 30, 1999 (collectively referred to herein as the "Interim Financial Statements"), are attached as Section 3.07 of the Company Disclosure Schedule. The 1999 Financial Statements and the Interim Financial Statements (including, in each case, any notes thereto) were prepared in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by GAAP) and each present fairly, in all material respects, the financial position of the Company as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein (subject, in the case of unaudited statements, to normal and recurring year-end adjustments which were not and are not expected, individually or in the aggregate, to be material).

(b) Except as set forth in Section 3.07 of the Company Disclosure Schedule, there are no debts, liabilities or obligations, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable ("Liabilities") of the Company, other than Liabilities (i) reflected or reserved against on the Reference Balance Sheet and (ii) in an aggregate amount not exceeding $100,000 incurred since September 30, 1999 in the ordinary course of the business, consistent with the past practice of the Company. Except as set forth in Section 3.07 of the Company Disclosure Schedule, reserves are reflected on the Reference Balance Sheet and on the books of account and other financial records of the Company against all Liabilities of the Company in amounts that have been established on a basis consistent with the past practice of the Company and in accordance with GAAP. Except as set forth in Section 3.07 of the Company Disclosure Schedule, there are no outstanding warranty claims against the Company.

SECTION 3.08. Absence of Certain Changes or Events. Since September 30, 1999, except as contemplated by or as disclosed in this Agreement, the Company has conducted its business only in the ordinary course and in a manner consistent with past practice and, since such date, (a) there has not been any Company Material Adverse Effect and (b) the Company has not taken any of the actions specified in Section 5.01(a) through 5.01(h).

SECTION 3.09. Absence of Litigation. There is no litigation, suit, claim, action, proceeding or investigation pending or, to the knowledge of the Company, threatened against the Company, or any property or asset of the Company, before any court, arbitrator or Governmental Entity. Neither the Company nor any material property or assets of the Company is subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of the Company, continuing investigation by, any Governmental Entity, or any order, writ, judgment, injunction, decree, determination or award of any court, arbitrator or Governmental Entity that could materially and adversely affect the properties or assets of the Company taken as a whole.

SECTION 3.10. Employee Benefit Plans; Labor Matters. (a) Section 3.10(a) of the Company Disclosure Schedule contains a true and complete list of each material deferred compensation, incentive compensation and equity compensation plan, each material "welfare" plan, fund or program (within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), each material "pension" plan, fund or program (within the meaning of Section 3(2) of ERISA), each material employment, termination or severance agreement and each other material employee benefit plan, fund, program, agreement, policy or arrangement, in each case, that is sponsored, maintained or contributed to or required to be contributed to by the Company or by any person that is a member of the same controlled group as the Company or under common control with the Company within the meaning of Section 414 of the Code (each, an "ERISA Affiliate") or to which the Company or an ERISA Affiliate is party, whether written or oral, for the benefit of any employee, consultant, director or former employee, consultant or director of the Company or any ERISA Affiliate (each, a "Plan").

(b) With respect to each Plan, the Company has made available to Parent a true and correct copy of (i) such Plan, including any amendments thereto or any written interpretations thereof, (ii) the most recent determination letter, if any, issued by the IRS with respect to any Plan intended to be qualified under section 401(a) of the Code, (iii) any material correspondence with the IRS or the Department of Labor with respect to each Plan, (iv) all written communications to any employees relating to any Plan and any proposed Plans, in each case, relating to any material amendments, terminations, establishments, increases or decreases in benefits, acceleration of payments or vesting schedules or other events which would result in any material liability to the Company.

(c) The Company does not have any plan or commitment, whether legally binding or not, to establish any new Plan, to modify any Plan (except to the extent required by law or to conform any such Plan to the requirements of any applicable law, in each case as previously disclosed to Parent in writing), or to enter into any Plan, nor does it have any intention or commitment to do any of the foregoing. No Plan is a "multiemployer plan" (as such term is defined in section 3(37) of ERISA). Neither the Company nor any of its ERISA Affiliates has ever maintained, established, sponsored, participated in or contributed to any

employee benefit plan which is subject to Part 3 of Subtitle B of Title I of ERISA, Title IV of ERISA or Section 412 of the Code.

(d) With respect to the Plans, no event has occurred and, to the knowledge of the Company, there exists no condition or set of circumstances in connection with which the Company or any ERISA Affiliate could be subject to any material liability under the terms of such Plans, ERISA, the Code or any other applicable law. Each of the Plans has been operated and administered in all material respects in accordance with applicable laws and administrative or governmental rules and regulations, including, but not limited to, ERISA and the Code. Each of the Plans intended to be "qualified" within the meaning of Section 401(a) of the Code has received a favorable determination letter as to such qualification from the IRS, and to the knowledge of the Company no event has occurred, either by reason of any action or failure to act, which would cause the loss of any such qualification. All contributions or other amounts payable by the Company or any ERISA Affiliate with respect to each Plan in respect of current or prior plan years have been paid or accrued in accordance with GAAP and Section 412 of the Code.

(e) The Company has made available to Parent prior to the date of this Agreement copies of all Plans, agreements and other arrangements of the Company with or relating to its employees which contain change of control provisions.

(f) No Plan provides benefits, including, without limitation, death or medical benefits (whether or not insured), with respect to current or former employees of the Company or any ERISA Affiliate beyond their retirement or other termination of service, other than (i) coverage mandated by applicable law, (ii) death benefits or retirement benefits under any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), (iii) deferred compensation benefits accrued as liabilities on the books of the Company or any ERISA Affiliate or (iv) benefits the full cost of which are borne by the current or former employees (or their beneficiaries). The Company has never represented to or contracted with (whether in oral or written form) any employee (either individually or as a group) that such employee would be provided with life insurance, medical or other employee welfare benefits upon retirement or termination of employment, except to the extent required by statute.

(g) Section 3.10(g) of the Company Disclosure Schedule sets forth the name of each individual who has been granted Company Stock Options under the Company Stock Option Plan or otherwise, the number of Company Stock Options granted to such individual and the vesting schedule and per share exercise price of such Company Stock Options.

(h) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby, either alone or together with another event, will (i) result in any material payment (including, without limitation, severance, unemployment compensation, golden parachute, forgiveness of indebtedness or otherwise) becoming due under any Plan or any other arrangement described in Section 3.10(e), (ii) materially increase any benefits otherwise payable under any Plan or any other arrangement described in Section 3.10(e), (iii) result in the acceleration of the time of payment, vesting or funding of any material benefits including, but not limited to, the acceleration of the vesting and

exercisability of any Company Stock Options, or (iv) affect in any material respect any Plan's current treatment under any Laws including any Tax or social contribution law.

(i) The Company is not a party to any collective bargaining or other labor union contract applicable to persons employed by the Company and no collective bargaining agreement is being negotiated by the Company. As of the date of this Agreement, there is no labor dispute, strike or work stoppage against the Company pending or threatened in writing which may interfere with the respective business activities of the Company. As of the date of this Agreement, to the knowledge of the Company, neither the Company nor any of its representatives or employees, has committed any unfair labor practices in connection with the operation of the businesses of the Company, and there is no charge or complaint relating to the Company or any Affiliate by the National Labor Relations Board, the Equal Employment Opportunity Commission or any comparable state agency pending or, to the knowledge of the Company, threatened.

(j) The Company (i) is in compliance in all material respects with all applicable foreign, federal, state and local laws, rules and regulations respecting employment, employment practices, terms and conditions of employment and wages and hours, in each case, with respect to employees, (ii) has withheld all amounts required by law or by agreement to be withheld from the wages, salaries and other payments to employees, (iii) is not liable for any arrears of wages or any taxes or any penalty for failure to comply with any of the foregoing and (iv) is not liable for any payment to any trust or other fund or to any governmental or administrative authority, with respect to unemployment compensation benefits, social security or other benefits or obligations for employees (other than routine payments to be made in the normal course of business and consistent with past practice).

(k) The Company does not maintain, sponsor, participate in or contribute to any Plans that are subject to the laws of any jurisdiction other than the United States.

SECTION 3.11. Contracts. (a) Section 3.11(a) of the Company Disclosure Schedule lists each of the following written contracts and agreements of the Company (such contracts and agreements being "Material Contracts"):

(i) each contract and agreement for the purchase or lease of personal property with any supplier or for the furnishing of services to the Company involving an exchange of consideration of more than $6,000 annually;

(ii) all broker, exclusive dealing or exclusivity, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising contracts and agreements to which the Company is a party or any other contract that compensates any person based on any sales by the Company;

(iii) all leases and subleases of real property;

(iv) all contracts and agreements relating to indebtedness other than trade indebtedness of the Company;

(v) all contracts and agreements with any Governmental Entity to which the Company is a party;

(vi) all contracts and agreements that limit or purport to limit the ability of the Company to compete in any line of business or with any person or in any geographic area or during any period of time;

(vii) all contracts containing confidentiality requirements (including all nondisclosure agreements);

(viii) all contracts and agreements between or among the Company and any shareholder of the Company or any affiliate of such person;

(ix) any other material agreement of the Company which is terminable upon or prohibits a change of ownership or control of the Company; and

(x) all other contracts and agreements, whether or not made in the ordinary course of business, that contemplate an exchange of consideration with an aggregate value greater than $50,000.

(b) Each Material Contract: (i) is valid and binding on the Company and, to the knowledge of the Company, on the other parties thereto (subject in each case to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject in each case, as to enforceability, to the effect of general principles of equity), and is in full force and effect, and (ii) upon consummation of the transactions contemplated by this Agreement, shall continue in full force and effect without penalty or other adverse consequence. The Company is not in material breach of, or material default under, any Material Contract and, to the knowledge of the Company, no other party to any Material Contract is in material breach thereof or material default thereunder.

SECTION 3.12. Environmental Matters. (a) The Company is in compliance in all material respects with all applicable Environmental Laws.

(b) The Company has not received any written request for information, or been notified that it is a potentially responsible party, under CERCLA or any similar Law of any state, locality or any other jurisdiction.

(c) The Company has not entered into or agreed to any consent decree or order or is subject to any judgment, decree or judicial order relating to compliance with Environmental Laws, Environmental Permits or the investigation, sampling, monitoring, treatment, remediation, removal or cleanup of Hazardous Materials (as defined below) and, to the knowledge of the Company, no investigation, litigation or other proceeding is pending or threatened in writing with respect thereto.

SECTION 3.13. Intellectual Property. (a) Section 3.13 of the Company Disclosure Schedule sets forth a true and complete list of all (i) patents and patent applications, trademarks, trademark registrations and trademark applications, registered copyrights and copyright applications, domain names and Software (as defined herein), in each case owned by

the Company and material to the business of the Company ("Owned Intellectual Property") and (ii) licenses or sublicenses of patents and patent applications, trademarks, trademark registrations and trademark applications, registered copyrights and copyright applications, domain names and software to the Company, and licenses or sublicenses of Owned Intellectual Property by the Company to any third party, in each case that are material to the business of the Company ("Licensed Intellectual Property"). For purposes hereof, "Intellectual Property" means: (i) United States, international, and foreign patents, patent applications and statutory invention registrations, (ii) trademarks, service marks, trade dress, slogans, logos, domain names, and other source identifiers, including registrations and applications for registration thereof, (iii) copyrights, including registrations and applications for registration thereof and (iv) confidential and proprietary information, including trade secrets and know-how. For purposes hereof, "Software" means all material computer software developed by or on behalf of the Company, or used by the Company, including all computer software and databases operated by the Company on its web sites or used by the Company in connection with processing customer orders, storing customer information, or storing and archiving data.

(b) To the knowledge of the Company, the use of the Owned Intellectual Property and the Licensed Intellectual Property by the Company in the ordinary course of business does not materially conflict with or infringe upon the Intellectual Property rights of any third party. No claim has been asserted that the use of the Owned Intellectual Property and the Licensed Intellectual Property in the ordinary course of business does or may conflict with or infringe upon the Intellectual Property rights of any third party.

(c) To the knowledge of the Company, the Company is the exclusive owner of the entire and unencumbered right, title and interest in and to each item of Owned Intellectual Property, and the Company is entitled to use all Owned Intellectual Property and Licensed Intellectual Property in the ordinary course of business, subject only to the terms of the licenses of the Licensed Intellectual Property.

(d) The Owned Intellectual Property and the Licensed Intellectual Property include all of the material Intellectual Property and Software used in the ordinary day-to-day conduct of the business of the Company, and there are no other items of Intellectual Property or Software that are material to such ordinary day-to-day conduct of such business. To the knowledge of the Company, the Owned Intellectual Property and any Intellectual Property licensed to the Company under the Licensed Intellectual Property is subsisting, valid and enforceable, and has not been adjudged invalid or unenforceable in whole or part.

(e) No legal proceedings have been asserted or are pending or, to the knowledge of the Company, are threatened against the Company (i) based upon or challenging or seeking to deny or restrict the use by the Company of any of the Owned Intellectual Property or Licensed Intellectual Property, (ii) alleging that any services provided by, processes used by, or products manufactured or sold by the Company infringe upon or misappropriate any Intellectual Property right of any third party, or (iii) alleging that any Intellectual Property licensed under the Licensed Intellectual Property infringes upon any Intellectual Property right of any third party or is being licensed or sublicensed in conflict with the terms of any license or other agreement.

(f) To the knowledge of the Company, no person is engaging in any activity that infringes in a material manner upon the Owned Intellectual Property or any Intellectual Property licensed to the Company under the Licensed Intellectual Property. Except as set forth in Section 3.13 of the Company Disclosure Schedule, the Company has not granted any license or other right to any third party with respect to the Owned Intellectual Property or Licensed Intellectual Property. The consummation of the transactions contemplated by this Agreement will not result in the termination or impairment of any of the Owned Intellectual Property.

(g) The Company has delivered or made available to Parent correct and complete copies of all the licenses and sublicenses of the Licensed Intellectual Property. With respect to each such license and sublicense:

(i) such license or sublicense is valid and binding (subject in each case to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject in each case, as to enforceability, to the effect of general principles of equity) and in full force and effect and represents the entire agreement between the respective licensor and licensee with respect to the subject matter of such license or sublicense;

(ii) such license or sublicense will not cease to be valid and binding and in full force and effect on terms identical to those currently in effect as a result of the consummation of the transactions contemplated by this Agreement, nor will the consummation of the transactions contemplated by this Agreement constitute a breach or default under such license or sublicense or otherwise give the licensor or sublicensor a right to terminate such license or sublicense;

(iii) (A) the Company has not received any notice of termination or cancellation under such license or sublicense, (B) the Company has not received any notice of a breach or default under such license or sublicense, which breach has not been cured, and (C) the Company has not granted to any other third party any rights, adverse or otherwise, under such license or sublicense that would constitute a breach of such license or sublicense; and

(iv) to the Company's knowledge, neither the Company, nor any other party to such license or sublicense is in breach or default in any material respect, and, to the Company's knowledge, no event has occurred that, with notice or lapse of time would constitute such a breach or default or permit termination, modification or acceleration under such license or sublicense.

(h) The Software is free of all generally-known material viruses, worms, trojan horses and other material known contaminants, and does not contain any bugs, errors, or problems of a material nature that disrupt its operation.

(i) To the knowledge of the Company, the Company has the right to use all software development tools, library functions, compilers, and other third party software that is material to the business of the Company, or that is required to operate or modify the Software.

(j) The Company has taken reasonable steps in accordance with normal industry practice to maintain the confidentiality of its customer lists and customer information, trade secrets and other confidential Intellectual Property. To the knowledge of the Company (i) there has been no misappropriation of any material trade secrets or other material confidential Intellectual Property of the Company by any person, (ii) no employee, independent contractor or agent of the Company has misappropriated any material trade secrets of any other person in the course of such performance as an employee, independent contractor or agent and (iii) no employee, independent contractor or agent of the Company is in default or breach of any material term of any employment agreement, non-disclosure agreement, assignment of invention agreement or similar agreement or contract relating in any way to the protection, ownership, development, use or transfer of Intellectual Property.

SECTION 3.14. Taxes. (a) (i) All returns and reports in respect of Taxes (as defined herein) required to be filed with respect to the Company have been timely filed; (ii) all Taxes required to be shown on such returns and reports or otherwise due have been timely paid other than for Taxes not yet due and payable; (iii) all such returns and reports are true, correct and complete in all material respects; (iv) no adjustment relating to such returns has been proposed by any Tax authority and, to the knowledge of the Company, no basis exists for any such adjustment; (v) there are no pending actions or proceedings or, to the knowledge of the Company, actions or proceedings which have been threatened in writing, for the assessment or collection of Taxes against the Company; (vi) no consent under section 341(f) of the Code has been filed with respect to the Company; (vii) there are no tax liens on any assets of the Company other than for taxes not yet due and payable; (viii) neither the Company nor any affiliate is a party to any agreement or arrangement that would result, separately or in the aggregate, under the terms of such agreement or arrangement or upon the exercise by the Company of any discretionary authority under any such agreement or arrangement, in the actual or deemed payment by the Company of any "excess parachute payments" within the meaning of Section 280G of the Code; (ix) the Company is not doing business in nor engaged in a trade or business in any jurisdiction in which it has not filed any applicable income or franchise tax return required to be filed by applicable Law; and (x) no power of attorney that is currently in force has been granted with respect to any matter relating to Taxes that could affect the Company.

(b) As used in this Agreement, "Taxes" shall mean any and all taxes, fees, levies, duties, tariffs, imposts and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any government or taxing authority, including, without limitation: taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added or gains taxes; license, registration and documentation fees; and customers' duties, tariffs and similar charges.

SECTION 3.15. Vote Required. The only votes of the holders of any classes or series of capital stock of the Company necessary to approve this Agreement, the Merger and the other transactions contemplated by this Agreement is the affirmative vote of the holders of (i) at least a majority of the outstanding shares of Company Common Stock and Company Preferred

Stock voting together and (ii) at least 67% of the outstanding shares of Company Preferred Stock.

SECTION 3.16. Assets. Except as set forth in Section 3.16 of the Company Disclosure Schedule, the Company owns, leases or has the legal right to use all of the material properties and assets, including, without limitation, real property and personal property (other than Intellectual Property, which is covered by Section 3.13 hereof), used or intended to be used in the conduct of the business of the Company or otherwise owned, leased or used by the Company and, with respect to contract rights, is a party to and enjoys the right to the benefits of all material contracts, agreements and other arrangements used or intended to be used by the Company in or relating to the conduct of the business of the Company (all such properties, assets and contract rights being the "Assets"). Except as set forth in Section 3.16 of the Company Disclosure Schedule, the Company has good and marketable title to, or, in the case of leased or subleased Assets, valid and subsisting leasehold interests in, all the Assets, free and clear of all encumbrances.

SECTION 3.17. Certain Interests. (a) Neither of the Management Shareholders or, to the knowledge of the Company, any officer or director of the Company or any immediate relative or spouse who resides with, or is a dependent of, any such officer or director:

(i) has any direct or indirect financial interest in any competitor, supplier or customer of the Company, provided, however, that the ownership of securities representing no more than 2% of the outstanding voting power of any competitor, supplier or customer, and which are listed on any national securities exchange or traded actively in the national over-the-counter market, shall not be deemed to be a "financial interest" as long as the person owning such securities has no other connection or relationship with such competitor, supplier or customer;

(ii) owns, directly or indirectly, in whole or in part, or has any other interest in any tangible or intangible property which the Company uses in the conduct of its business (except for any such ownership or interest resulting from the ownership of securities in a public company); or

(iii) except as set forth in Section 3.17(a)(iii) of the Company Disclosure Schedule, has outstanding any indebtedness to the Company.

(b) Except as set forth in Section 3.17(b) of the Company Disclosure Schedule, except for the Company Convertible Note and except for the payment of employee and contractor compensation and expenses in the ordinary course of business, the Company does not have any liability or any other obligation of any nature whatsoever to any stockholder of the Company or any affiliate thereof or to any officer or director of the Company or, to the knowledge of the Company, to any immediate relative or spouse of any such officer or director.

SECTION 3.18. Insurance Policies. Section 3.18 of the Company Disclosure Schedule sets forth a true and complete list of all insurance policies held by the Company. True and complete copies of all such policies have been provided or made available by the Company to Parent. All premiums due to the date hereof on such policies have been paid. The Company

has not failed to give any notice or present any claim under any such policy in a timely fashion, except where such failure would not prejudice the Company's ability to make a claim. Such insurance to the date hereof has (i) been maintained in full force and effect and (ii) not been canceled or changed, except to extend the maturity dates thereof.

SECTION 3.19. Year 2000 Compliance. The Company has (i) undertaken an assessment of those Company Systems that could be adversely affected by a failure to be Year 2000 Compliant, (ii) developed a plan and time line for rendering such Systems Year 2000 Compliant, (iii) to date, implemented such plan in accordance with such timetable in all material respects and (iv) disclosed such plan to Parent. Based on such inventory, review and assessment, all Company Systems are Year 2000 Compliant. For purposes hereof, "Company Systems" shall mean all computer, hardware, software, Software, systems, and equipment (including embedded microcontrollers in non-computer equipment) embedded within or required to operate the current products of the Company, and/or material to or necessary for the Company to carry on their businesses as currently conducted. For purposes hereof, "Year 2000 Compliant" means that the Company Systems provide uninterrupted millennium functionality in that the Company Systems will record, store, process and present calendar dates falling on or after January 1, 2000, in the same manner and with the same functionality as the Company Systems record, store, process, and present calendar dates falling on or before December 31, 1999.

SECTION 3.20. Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the Merger or the other transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub hereby jointly and severally represent and warrant to the Company that:

SECTION 4.01. Organization and Qualification. Each of Parent and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation.

SECTION 4.02. Authority Relative to this Agreement. Each of Parent and Merger Sub has all necessary corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the Merger and the other transactions contemplated by this Agreement. The execution and delivery of this Agreement by each of Parent and Merger Sub and the consummation by each of Parent and Merger Sub of the Merger and the other transactions contemplated by this Agreement have been duly and validly authorized by all necessary corporate action and no other corporate proceedings on the part of Parent or Merger Sub are necessary to authorize this Agreement or to consummate the Merger and the other transactions contemplated by this Agreement (other than, with respect to the Merger, the filing and recordation of appropriate merger documents as required by the FBCA). This Agreement has been duly and validly executed and delivered by each of Parent and Merger

Sub and, assuming the due authorization, execution and delivery by the Company, constitutes a legal, valid and binding obligation of each of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with its terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity.

SECTION 4.03. No Conflict; Required Filings and Consents. (a) The execution and delivery of this Agreement by each of Parent and Merger Sub do not, and the performance of this Agreement by each of Parent and Merger Sub will not, (i) conflict with or violate the certificate of incorporation or by-laws of Parent or any comparable organizational documents of Parent or Merger Sub, (ii) assuming that all consents, approvals, authorizations and other actions described in Section 4.03(b) have been obtained and all filings and obligations described in Section 4.03(b) have been made, conflict with or violate in any material respect any Law applicable to Parent or by which any property or asset of Parent is bound or affected, 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 right of termination, amendment, acceleration or cancellation of, or result in the creation of a lien or other encumbrance on any property or asset of Parent pursuant to, any material note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation, except, with respect to clause (iii), for any such conflicts, violations, breaches, defaults, or other occurrences that could not reasonably be expected, individually or in the aggregate, to prevent or materially delay the consummation of the transactions contemplated by this Agreement.

(b) The execution and delivery of this Agreement by each of Parent and Merger Sub do not, and the performance of this Agreement by each of Parent and Merger Sub will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity, except (i) for the filing and recordation of appropriate merger documents as required by the FBCA and (ii) where failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications could not reasonably be expected to have, individually or in the aggregate to prevent or materially delay the consummation of the transactions contemplated by this Agreement

SECTION 4.04. Operations of Merger Sub. Merger Sub is a wholly owned subsidiary of Parent, was formed solely for the purpose of engaging in the transactions contemplated by this Agreement, has engaged in no other business activities and has conducted its operations only as contemplated by this Agreement.

ARTICLE V

CONDUCT OF THE COMPANY'S BUSINESS PENDING THE MERGER

SECTION 5.01. Conduct of Business by the Company Pending the Merger. The Company agrees that, between the date of this Agreement and the Effective Time, except as set forth in Section 5.01 of the Company Disclosure Schedule or as contemplated by any other provision of this Agreement, unless Parent shall otherwise consent in writing:

(i) the businesses of the Company shall be conducted only in, and the Company shall not take any action except in, the ordinary course of business and in a manner consistent with past practice; and

(ii) the Company shall use its reasonable efforts to preserve substantially intact its business organization, to keep available the services of the current officers, employees and consultants of the Company and to preserve the current relationships of the Company with customers, suppliers and other persons with which the Company has significant business relations.

By way of amplification and not limitation, except as contemplated by this Agreement or as set forth in Section 5.01 of the Company Disclosure Schedule, the Company shall not, between the date of this Agreement and the Effective Time, directly or indirectly, do, or propose to do, any of the following without the prior written consent of Parent:

(a) amend or otherwise change its Articles of Incorporation or By-Laws;

(b) issue, sell, pledge, dispose of, grant, encumber, or authorize the issuance, sale, pledge, disposition, grant or encumbrance of, (i) any shares of its capital stock of any class, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of such capital stock, or any other ownership interest (including, without limitation, any phantom interest), of the Company, except pursuant to the terms of options, warrants or preferred stock outstanding on the date of this Agreement or options granted to employees of the Company to purchase up to 256,845 shares of Company Common Stock, or (ii) any material assets of the Company;

(c) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock;

(d) reclassify, combine, split, subdivide or redeem, purchase or otherwise acquire, directly or indirectly, any of its capital stock;

(e) acquire (including, without limitation, by merger, consolidation, or acquisition of stock or assets) any interest in any corporation, partnership, other business organization or any division thereof or any assets;

(f) incur any indebtedness for borrowed money (other than trade payables) or issue any debt securities or assume, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any person, or make any loans or advances;

(g) authorize any capital expenditure in excess of $25,000; or

(h) increase the compensation payable or to become payable to its officers or employees, except for increases in accordance with past practice in salaries or wages of employees of the Company who are not officers of the Company, or grant any severance or termination pay to, or enter into any employment or severance agreement with, any director, officer or other employee of the Company, or establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, stock option, restricted stock, pension,

retirement, deferred compensation, employment, termination, severance or other plan, agreement, trust, fund, policy or arrangement for the benefit of any director, officer or employee;

(i) other than in the ordinary course of business consistent with past practice, enter into any contract or agreement material to the business, results of operations or financial condition of the Company;

(j) enter into or amend any contract, agreement, commitment or arrangement that, if fully performed, would not be permitted under this Section 5.01;

(k) other than in the ordinary course of business consistent with past practice, enter into any licensing, distribution, sponsorship, advertising, merchant program or other similar contracts, agreements, or obligations which may not be cancelled without penalties by the Company upon notice of 30 days or less;

(l) take any action to cause, or fail to take any action to prevent, the accelerated vesting and exercisability of the Company Stock Options;

(m) take any action, other than reasonable and usual actions in the ordinary course of business and consistent with past practice, with respect to accounting policies or procedures; or

(n) not make, change or revoke any material tax election or make any material agreement or settlement regarding taxes with any taxing authority.

SECTION 5.02. Notification of Certain Matters. Parent shall give prompt notice to the Company, and the Company shall give prompt notice to Parent, of (i) the occurrence, or non-occurrence, of any event the occurrence, or non-occurrence, of which would be likely to cause (x) any representation or warranty contained in this Agreement to be untrue or inaccurate or (y) any covenant, condition or agreement contained in this Agreement not to be complied with or satisfied and (ii) any failure of Parent or the Company, as the case may be, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 5.02 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

ARTICLE VI

ADDITIONAL AGREEMENTS

SECTION 6.01. Shareholder Approval by Written Consent; Information Statement. If not completed prior to the date hereof, as promptly as practicable, and in any event within seven (7) days after the date hereof, the Company shall submit this Agreement and the transactions contemplated hereby to the Company's shareholders for approval and adoption by written consent as provided by the FBCA and the Company's Articles of Incorporation and By-laws. Within 10 days after the date of such approval and adoption by written consent, the Company shall distribute to its shareholders, after prior approval by Parent (which shall not be unreasonably withheld), an information statement (together with any amendments thereof or

supplements thereto, the "Information Statement") relating to the action of the Company's shareholders, by written consent in lieu of a meeting, to adopt this Agreement and approve the Merger, as required by Section 607.0704 of the FBCA.

SECTION 6.02. Access to Information. Except as required pursuant to any confidentiality agreement or similar agreement or arrangement to which the Company is a party or pursuant to applicable Law, from the date of this Agreement to the Effective Time, the Company shall: (i) provide to Parent (and its officers, directors, employees, accountants, consultants, legal counsel, agents and other representatives, collectively, "Representatives") access at reasonable times upon prior notice to the officers, employees, agents, properties, offices and other facilities of the Company and to the books and records thereof and (ii) furnish promptly such information concerning the business, properties, contracts, assets, liabilities, personnel and other aspects of the Company as Parent or its Representatives may reasonably request.

SECTION 6.03. No Solicitation of Transactions. (a) The Company will not, directly or indirectly, and will instruct its officers, directors, employees, agents or advisors or other representatives (including, without limitation, any investment banker, attorney or accountant retained by it), not to, directly or indirectly, solicit, initiate or knowingly encourage (including by way of furnishing nonpublic information), or take any other action knowingly to facilitate, any inquiries or the making of any proposal or offer (including, without limitation, any proposal or offer to its stockholders) that constitutes, or may reasonably be expected to lead to, any Competing Transaction (as defined below), or enter into or maintain or continue discussions or negotiate with any person or entity in furtherance of such inquiries or to obtain a Competing Transaction, or agree to or endorse any Competing Transaction, or authorize or permit any of the officers, directors or employees of the Company, or any investment banker, financial advisor, attorney, accountant or other representative retained by the Company, to take any such action. The Company shall notify Parent promptly if any proposal or offer, or any inquiry or contact with any person with respect thereto, regarding a Competing Transaction is made. The Company immediately shall cease and cause to be terminated all existing discussions or negotiations with any parties conducted heretofore with respect to a Competing Transaction. The Company agrees not to release any third party from, or waive any provision of, any confidentiality or standstill agreement to which it is a party.

(b) A "Competing Transaction" means any of the following involving the Company (other than the Merger and the other transactions contemplated by this Agreement): (i) a merger, consolidation, share exchange, business combination or other similar transaction; (ii) any sale, lease, exchange, transfer or other disposition of a material portion of the assets of such party and its subsidiaries, taken as a whole; (iii) a tender offer or exchange offer for 15% or more of the outstanding voting securities of such party; or (iv) any solicitation in opposition to approval by the Company's shareholders of this Agreement and the Merger.

SECTION 6.04. Further Action; Consents; Filings. Upon the terms and subject to the conditions hereof, each of the parties hereto shall use its reasonable best efforts to (i) take, or cause to be taken, all appropriate action and do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the Merger and the other transactions contemplated by this Agreement, (ii) obtain from

Governmental Entities any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made by Parent or the Company or any of their subsidiaries in connection with the authorization, execution and delivery of this Agreement and the consummation of the Merger and the other transactions contemplated by this Agreement and (iii) make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement, the Merger and the other transactions contemplated by this Agreement required under applicable Law. The parties hereto shall cooperate with each other in connection with the making of all such filings, including by providing copies of all such documents to the nonfiling party and its advisors prior to filing and, if requested, by accepting all reasonable additions, deletions or changes suggested in connection therewith.

SECTION 6.05. Public Announcements. The initial press release relating to this Agreement shall be a joint press release the text of which has been agreed to by each of Parent and the Company. Thereafter, unless otherwise required by applicable Law, neither the Company nor any of its officers shall issue any press release or otherwise make any public statements with respect to this Agreement, the Merger or any of the other transactions contemplated by this Agreement without the prior written consent of Parent.

ARTICLE VII

CONDITIONS TO THE MERGER

SECTION 7.01. Conditions to the Obligations of Each Party. The obligations of the Company, Parent and Merger Sub to consummate the Merger are subject to the satisfaction or waiver (where permissible) of the following conditions:

(a) this Agreement shall have been approved and adopted by the requisite affirmative vote of the shareholders of the Company in accordance with the FBCA and the Company's Articles of Incorporation;

(b) no Governmental Entity or court of competent jurisdiction located or having jurisdiction in the United States shall have enacted, issued, promulgated, enforced or entered any law, rule, regulation, judgment, decree, executive order or award (an "Order") which is then in effect and has the effect of making the Merger illegal or otherwise prohibiting consummation of the Merger; and

(c) any waiting period (and any extension thereof) applicable to the consummation of the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") shall have expired or been terminated.

SECTION 7.02. Conditions to the Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to consummate the Merger are subject to the satisfaction or waiver (where permissible) of the following additional conditions:

(a) each of the representations and warranties of the Company contained in this Agreement shall be true and correct as of the Effective Time as though made on and as of the Effective Time, except that those representations and warranties which address matters only

as of a particular date shall remain true and correct as of such date, and Parent shall have received a certificate of the Chief Executive Officer of the Company to such effect;

(b) the Company shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time and Parent shall have received a certificate of the Chief Executive Officer of the Company to that effect;

(c) Parent shall have received, each in form and substance reasonably satisfactory to Parent, (i) all required authorizations, consents, orders and approvals of all Governmental Entities and officials, if any, and (ii) all third party consents set forth in Section 3.05;

(d) The Company shall have received written consents to the approval and adoption of this Agreement and the transactions contemplated hereby, or valid waivers of dissenters' rights under the FBCA, from the holders of more than 92.5% of the shares of Company Stock outstanding immediately prior to the Effective Time;

(e) no event or events shall have occurred, or be reasonably likely to occur, which, individually or in the aggregate, have, or could have, a Company Material Adverse Effect;

(f) each of Jared S. Hechtkopf and William D. Lovell shall have executed an employment agreement in substantially the form attached hereto as Exhibit 7.02(f)(i) and Exhibit 7.02(f)(ii), respectively, and such employment agreement shall be in full force and effect at the Effective Time;

(g) there shall not be pending or threatened any suit, action, investigation or proceeding to which a Governmental Entity is a party (i) seeking to restrain or prohibit the consummation of the Merger or any of the other transactions contemplated by this Agreement or seeking to obtain from Parent or the Company any damages that are material or (ii) seeking to prohibit or limit the ownership or operation by Parent or the Company of any material portion of their respective businesses or assets;

(h) Parent shall have received from Edwards & Angell, LLP immediately after the Effective Time a legal opinion, addressed to Parent and dated the Closing Date, in form and substance reasonably acceptable to Parent.

(i) the Software License Agreement dated as of September 9, 1998 between the Company and Kobie Marketing, Inc. shall have been amended pursuant to an agreement substantially in the form agreed between Parent and the Company prior to the execution and delivery of this Agreement;

(j) each of (i) the Stockholders' Agreement dated as of September 10, 1998 among the Company and the other parties thereto, (ii) the Put Agreement dated as of September 10, 1998 among the Company and the other parties thereto, and (iii) the Put Agreement dated as of April 7, 1999 among the Company and the other parties thereto (the agreements in clause (i) and clause (ii) being the "Put Agreements"), shall have been terminated (subject to the

consummation of the Merger and effective at the Effective Time) at no cost to the Company and with no continuing obligations on the part of the Company;

(k) all consents of holders of Company Warrants required in connection with the transactions contemplated by this Agreement shall have been obtained;

(l) Communications Equity Associates, Inc. ("CEA") shall have agreed pursuant to an agreement in form and substance satisfactory to Parent (the "CEA Agreement") to release the Company from any obligation to pay any fees, expenses or other amounts or obligations to CEA in connection with this Agreement or the transactions contemplated hereby except as set forth in the CEA Agreement; and

(m) Rexall Showcase International, Inc. ("RSI") and the Company shall have entered into a definitive royalty agreement in form and substance satisfactory to Parent in connection with the Joint Development Agreement between RSI and PCC Direct, Inc. ("PCCD") dated December 9, 1997, as assigned by PCCD to the Company; and

(n) each of the Management Shareholders and the Escrow Agent shall have executed and delivered the Cash Escrow Agreement.

SECTION 7.03. Conditions to the Obligations of the Company. The obligations of the Company to consummate the Merger are subject to the satisfaction or waiver (where permissible) of the following additional conditions:

(a) each of the representations and warranties of Parent and Merger Sub contained in this Agreement shall be true and correct as of the Effective Time, as though made on and as of the Effective Time, except that those representations and warranties which address matters only as of a particular date shall remain true and correct as of such date, and the Company shall have received a certificate of a duly authorized officer of Parent to such effect;

(b) Parent and Merger Sub shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time, and the Company shall have received a certificate of a duly authorized officer of Parent to that effect;

(c) there shall not be pending or threatened any suit, action, investigation or proceeding to which a Governmental Entity is a party seeking to restrain or prohibit the consummation of the Merger or any of the other transactions contemplated by this Agreement; and

(d) Parent and Merger Sub shall pay $375,000 of the Merger Consideration to CEA to release the Company from any fees and expenses or other amounts or obligations to CEA or as provided in the CEA Agreement.

ARTICLE VIII

TERMINATION, AMENDMENT AND WAIVER

SECTION 8.01. Termination. This Agreement may be terminated and the Merger and the other transactions contemplated by this Agreement may be abandoned at any time prior to the Effective Time, notwithstanding any requisite approval and adoption of this Agreement and the transactions contemplated by this Agreement, as follows:

(a) by mutual written consent duly authorized by the Boards of Directors of each of Parent and the Company;

(b) by either Parent or the Company if the Effective Time shall not have occurred on or before January 15, 2000; provided, however, that the right to terminate this Agreement under this Section 8.01(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before January 15, 2000;

(c) there shall be any Order which is final and nonappealable preventing the consummation of the Merger;

(d) by Parent upon a breach of any material representation, warranty, covenant or agreement on the part of the Company set forth in this Agreement, or if any representation or warranty of the Company shall have become untrue, in either case such that the conditions set forth in Section 7.02(a) and Section 7.02(b) would not be satisfied ("Terminating Company Breach"); provided, however, that, if such Terminating Company Breach is curable by the Company through the exercise of its reasonable efforts and for so long as the Company continues to exercise such reasonable efforts, Parent may not terminate this Agreement under this Section 8.01(d) unless such breach is not cured within thirty (30) days after notice thereof is provided by Parent to the Company; or

(e) by the Company upon a breach of any material representation, warranty, covenant or agreement on the part of Parent and Merger Sub set forth in this Agreement, or if any representation or warranty of Parent and Merger Sub shall have become untrue, in either case such that the conditions set forth in Section 7.03(a) and Section 7.03(b) would not be satisfied ("Terminating Parent Breach"); provided, however, that, if such Terminating Parent Breach is curable by Parent and Merger Sub through the exercise of their respective reasonable efforts and for so long as Parent and Merger Sub continue to exercise such reasonable efforts, the Company may not terminate this Agreement under this Section 8.01(e) unless such breach is not cured within thirty (30) days after notice thereof is provided by the Company to Parent.

SECTION 8.02. Effect of Termination. In the event of termination of this Agreement pursuant to Section 8.01, this Agreement shall forthwith become void, there shall be no liability under this Agreement on the part of Parent, Merger Sub or the Company or any of their respective officers or directors, and all rights and obligations of each party hereto shall cease, provided, however, that nothing herein shall relieve any party from liability for the willful

breach of any of its representations, warranties, covenants or agreements set forth in this Agreement.

SECTION 8.03. Amendment. This Agreement may be amended by the parties hereto by action taken by or on behalf of their respective Boards of Directors at any time prior to the Effective Time. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

SECTION 8.04. Waiver. At any time prior to the Effective Time, any party hereto may (a) extend the time for the performance of any obligation or other act of any other party hereto, (b) waive any inaccuracy in the representations and warranties contained herein or in any document delivered pursuant hereto, and (c) waive compliance with any agreement or condition contained herein. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby.

ARTICLE IX

INDEMNIFICATION

SECTION 9.01. Survival of Representations and Warranties. The representations and warranties contained in this Agreement and the Voting Agreement (collectively, the "Acquisition Documents"), shall survive the Effective Time for a period of 12 months. Neither the period of survival nor the liability of a party hereto with respect to such party's representations and warranties shall be reduced by any investigation made at any time by or on behalf of another party hereto. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by a party hereto to another party hereto, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

SECTION 9.02. Indemnification by the Management Shareholders. (a) Subject to Section 9.02(b), after the Effective Time, Parent and its affiliates (including, after the Effective Time, the Surviving Corporation), officers, directors, employees, agents, successors and assigns (collectively, the "Parent Indemnified Parties") shall be indemnified and held harmless by the Management Shareholders, severally and jointly, for any and all Liabilities, losses, damages, diminution in value, claims, costs and expenses, interest, awards, judgments and penalties (including, without limitation, reasonable attorneys' and consultants' fees and expenses) actually suffered or incurred by them (including, without limitation, in connection with any action brought or otherwise initiated by any of them) (hereinafter, a "Loss"), arising out of or resulting from:

(i) the breach of any representation or warranty (without giving effect to any qualification as to materiality contained therein in determining the amount of any Loss) made by the Company or such Management Shareholder in the Acquisition Documents;

(ii) the breach of any covenant or agreement made by the Company or such Management Shareholder in the Acquisition Documents;

(iii) Losses from breach of contract or other claims made by any party alleging to have had a contractual or other right to acquire the Company's capital stock or assets; or

(iv) any funds or obligations owed to CEA or any affiliates of CEA except in accordance with or as provide in the CEA Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, except with respect to claims based on fraud:

(i) the maximum aggregate amount of indemnifiable Losses arising out of or resulting from the causes enumerated in Section 9.02(a)(i) which may be recovered from any Management Shareholder shall be the amount equal to 25% of the Merger Consideration to which such Management Shareholder is entitled pursuant to Section 2.01 of this Agreement;

(ii) no indemnification payment by the Management Shareholders with respect to any indemnifiable Loss otherwise payable under Section 9.01(a) and arising out of or resulting from the causes enumerated in Section 9.02(a)(i) shall be payable until such time as all such indemnifiable Losses shall aggregate to more than $150,000, after which time the Management Shareholders shall be liable for all indemnifiable Losses, exceeding the first $150,000 of Losses; and

(iii) except with respect to claims based on fraud or for non-cash equitable remedies, indemnification claims pursuant to Section 9.02(a)(i) may be satisfied only in accordance with the Cash Escrow Agreement only out of cash held in the Cash Escrow Fund on behalf of such Management Shareholders.

SECTION 9.03. Indemnification by Parent. (a) Subject to Section 9.03(b), after the Effective Time, the Management Shareholders and their respective affiliates, officers, directors, employees, agents, successors and assigns (collectively, the "Shareholder Indemnified Parties") shall be indemnified and held harmless by Parent for any and all Losses, arising out of or resulting from:

(i) the breach of any representation or warranty (without giving effect to any qualification as to materiality contained therein in determining the amount of any Loss) made by Parent or Merger Sub in the Acquisition Documents; or

(ii) the breach of any covenant or agreement made by Parent or Merger Sub in the Acquisition Documents.

(b) Notwithstanding anything to the contrary contained in this Agreement:

(i) the maximum aggregate amount of indemnifiable Losses arising out of or resulting from the causes enumerated in Section 9.03(a)(i) which may be recovered from Parent shall be the amount equal to 25% of the Merger Consideration to which the Management Shareholders are entitled pursuant to Section 2.01 of this Agreement; and

(ii) no indemnification payment by Parent with respect to any indemnifiable Loss otherwise payable under Section 9.03(a) and arising out of or resulting from the causes enumerated in Section 9.03(a)(i) shall be payable until such time as all such indemnifiable Losses shall aggregate to more than $150,000, after which time Parent shall be liable for all indemnifiable Losses exceeding the first $150,000 of Losses.

SECTION 9.04. Indemnification Procedures. (a) For purposes of this Section 9.04, a party against which indemnification may be sought is referred to as the "Indemnifying Party" and the party which may be entitled to indemnification is referred to as the "Indemnified Party".

(i) The obligations and Liabilities of Indemnifying Parties under this Article IX with respect to Losses arising from claims of any third party which are subject to the indemnification provided for in this Article IX ("Third Party Claims") shall be governed by and contingent upon the following additional terms and conditions: if an Indemnified Party shall receive notice of any Third Party Claim, the Indemnified Party shall give all Indemnifying Parties notice of such Third Party Claim within 90 days of the receipt by the Indemnified Party of such notice; provided, however, that the failure to provide such notice shall not release an Indemnifying Party from any of its obligations under this Article IX except to the extent that such Indemnifying Party is materially prejudiced by such failure. The notice of claim shall describe in reasonable detail the facts known to the Indemnified Party giving rise to such indemnification claim, and the amount or good faith estimate of the amount arising therefrom.

(ii) If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party hereunder against any Losses that may result from such Third Party Claim, then the Indemnifying Party shall be entitled to assume and control the defense of such Third Party Claim at its expense and through counsel of its choice if it gives notice of its intention to do so to the Indemnified Party within ten days of the receipt of such notice from the Indemnified Party; provided, however, that if there exists or is reasonably likely to exist a conflict of interest that would make it inappropriate in the judgment of the Indemnified Party, in its reasonable discretion, for the same counsel to represent both the Indemnified Party and the Indemnifying Party, then the Indemnified Party shall be entitled to retain its own counsel, in each jurisdiction for which the Indemnified Party determines counsel is required, at the expense of the Indemnifying Party. In the event that the Indemnifying Party exercises the right to undertake any such defense against any such Third Party Claim as provided above, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party. Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at the Indemnifying Party's expense, all such witnesses, records, materials and information in the Indemnifying Party's possession or under the Indemnifying Party's control relating thereto as is reasonably required by the Indemnified Party. No such Third Party Claim

may be settled by any party conducting the defense against such claim without the prior written consent of the other party unless the other party and its affiliates is released in full in connection with such settlement.

ARTICLE X

GENERAL PROVISIONS

SECTION 10.01. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by cable, telecopy, facsimile, telegram or telex or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.01):

if to Parent or Merger Sub:

Kipling Investments Labuan Limited
Level 7
(F2) Main Office Tower
Jalan Merdeka
PO Box 80107
87011 Labuan F.T.
Malaysia
Facsimile No.: (6087) 439 193 or (6087) 451-311
Attention: Michael Hamer

if to the Company:

111 Second Avenue NE
Suite 500
St Petersburg, FL 33701-3479
Facsimile No.: (727) 822-3265
Attention: William D. Lovell

with a copy to:

Edwards & Angell, LLP
250 Royal Palm Way, Suite 300
Palm Beach, FL 33480
Facsimile No.: (561) 655-8719
Attention: Peter J. Sheptak

SECTION 10.02. Certain Definitions. (a) As used in this Agreement, the following terms shall have the following meanings:

(i) "affiliate" of a specified person means a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with such specified person;

(ii) "beneficial owner" with respect to any shares means a person who shall be deemed to be the beneficial owner of such shares (1) which such person or any of its affiliates or associates (as such term is defined in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended) beneficially owns, directly or indirectly, (2) which such person or any of its affiliates or associates has, directly or indirectly, (A) the right to acquire (whether such right is exercisable immediately or subject only to the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of consideration rights, exchange rights, warrants or options, or otherwise, or (B) the right to vote pursuant to any agreement, arrangement or understanding, or (3) which are beneficially owned, directly or indirectly, by any other persons with whom such person or any of its affiliates or associates or person with whom such person or any of its affiliates or associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares;

(iii) "business day" means any day on which banks are not required or authorized to close in Tampa, Florida;

(iv) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date hereof;

(v) "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly or as trustee or executor, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, as trustee or executor, by contract or credit arrangement or otherwise;

(vi) "Environmental Laws" means any federal, state or local statute, law, ordinance, regulation, rule, code or order of the United States, or any other jurisdiction and any enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to pollution or protection of the environment or natural resources, including, without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials, as in effect as of the date of this Agreement;

(vii) "Environmental Permits" means any permit, approval, identification number, license and other authorization required under any applicable Environmental Law;

(viii) "Hazardous Materials" means (a) any petroleum, petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials or polychlorinated biphenyls or (b) any chemical, material or substance defined or regulated as toxic or hazardous or as a pollutant or contaminant or waste under any applicable Environmental Law;

(ix) "knowledge of the Company" or "the Company's knowledge" means the actual knowledge of Jared Hechtkopf and Bill Lovell;

(x) "person" means an individual, corporation, partnership, limited partnership, syndicate, person (including, without limitation, a "person" as defined in section 13(d)(3) of the Securities Exchange Act of 1934, as amended), trust, association or entity or government, political subdivision, agency or instrumentality of a government; and

(xi) "subsidiary" or "subsidiaries" of any person means any corporation, partnership, joint venture or other legal entity of which such person (either alone or through or together with any other subsidiary) owns, directly or indirectly, more than 50% of the stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation or other legal entity.

(c) The following additional terms shall have the meanings defined for such terms in the Sections of this Agreement set forth below:

Term	Section
Acquisition Documents	9.01
Agreement	Preamble
Aggregate Cash Consideration	2.01(a)(i)
Articles of Merger	1.02
Assets	3.16
Cash Escrow Fund	2.02(b)
Cash Escrow Agreement	2.02(b)
CEA	7.02(k)
Closing	1.02
Code	2.02(e)
Company	Preamble
Company Common Stock	Recitals
Company Convertible Notes	2.03(c)
Company Disclosure Schedule	Article III
Company Material Adverse Effect	3.01
Company Permits	3.06(a)
Company Preferred Stock	Recitals
Company Share Certificates	2.02(a)
Company Stock	Recitals
Company Stock Option Plan	2.04
Company Stock Options	2.04
Company Systems	3.19
Competing Transaction	6.03(b)
control	10.02(a)
FBCA	Recitals
Dissenting Shares	2.05(a)

Effective Time	1.02
ERISA	3.10(a)
ERISA Affiliate	3.10(a)
Escrow Agent	2.02(a)
Fully Diluted Share Number	2.01(b)
GAAP	3.07(a)
Governmental Entity	3.05(b)
HSR Act	7.01(c)
Indemnified Party	9.04(a)
Indemnifying Party	9.04(a)
Information Statement	6.01
Intellectual Property	3.13(a)
Interim Financial Statements	3.07(a)
IRS	3.10(b)
Law	3.05(a)
Liabilities	3.07(b)
Licensed Intellectual Property	3.13(a)
Loss	9.02(a)
Management Shareholder	Preamble
Material Contracts	3.11(a)
Merger	Recitals
Merger Consideration	2.01(a)
Merger Sub	Preamble
1999 Financial Statements	3.07(a)
Order	7.01(b)
Owned Intellectual Property	3.13(a)
Parent	Preamble
Parent Indemnified Parties	9.02(a)
PCCD	7.02(m)
Plan	3.10(a)
Principal Shareholders	Recitals
Put Agreements	7.02(j)
Reference Balance Sheet	3.07(a)
Representatives	6.02(a)
RSI	7.02(m)
Software	3.13(a)
Shareholder Approval	3.04
Shareholder Indemnified Parties	9.03(a)
Surviving Corporation	1.01
Taxes	3.14(c)
Terminating Company Breach	8.01(d)
Terminating Parent Breach	8.01(c)
Third Party Claims	9.04(a)
Voting Agreement	Recitals
Year 2000 Compliant	3.19

SECTION 10.03. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

SECTION 10.04. Assignment; Binding Effect; Benefit. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties; provided, however, that Parent may assign all or any of its rights under this Agreement to any of its Affiliates or to any subsequent purchaser of assets or stock of the Company (by merger or otherwise) without the prior written consent of the other parties. Subject to the preceding sentence, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement.

SECTION 10.05. Incorporation of Exhibits. The Company Disclosure Schedule, the Parent Disclosure Schedule and all Exhibits attached hereto and referred to herein are hereby incorporated herein and made a part hereof for all purposes as if fully set forth herein.

SECTION 10.06. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or in equity.

SECTION 10.07. Governing Law; Forum. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida applicable to contracts executed in and to be performed in that state and without regard to any applicable conflicts of law. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined in the federal court in the State of Florida. Each of the parties to this Agreement (a) consents to submit itself to the personal jurisdiction of the federal court in the State of Florida in the event any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (c) agrees that it will not bring any action in relation to this Agreement, the Merger or any of the other transactions contemplated by this Agreement in any court other than the federal court of the State of Florida.

SECTION 10.08. Headings. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 10.09. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

SECTION 10.10. Entire Agreement. This Agreement (including the Exhibits, the Company Disclosure Schedule and the Parent Disclosure Schedule) and the Confidentiality Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect thereto. No addition to or modification of any provision of this Agreement shall be binding upon any party hereto unless made in writing and signed by all parties hereto.

IN WITNESS WHEREOF, Parent, Merger Sub, the Company and the Management Shareholders have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

KIPLING INVESTMENTS LABUAN LIMITED

By: _____
Name: Simon B. Ruddick
Title: Director

HIGHTOUCH ACQUISITION, INC.

By: _____
Name:
Title:

HIGHTOUCH TECHNOLOGIES, INC.

By: _____
Name:
Title:

JARED S. HECHTKOPF

_____

WILLIAM D. LOVELL

_____

EXHIBIT A

Principal Shareholders

Principal Shareholder	Common Stock	Preferred Stock
New River Capital Partners, L.P.		117,648
Daydreams, LLC		88,235
William D. Lovell	500,000	44,118
Jared S. Hechtkopf	500,000	44,118
George Simone		29,412
Clay M. Biddinger		22,058
LOREBE Investments, Ltd.		14,706
J. Patrick Michaels, Jr.		14,706
Jay Dugan, Jr.		10,000
Stephan Goetz		7,353
David LeFevre		7,353

EXHIBIT B

Form of Voting Agreement

EXHIBIT 2.02(b)

Form of Cash Escrow Agreement

EXHIBIT 7.02(f)(i)

Form of Employment Agreement of Jared S. Hechtkopf

EXHIBIT 7.02(f)(ii)

Form of Employment Agreement of William D. Lovell

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EXHIBIT B

STATE OF FLORIDA

RESTATED ARTICLES OF INCORPORATION

OF

HIGHTOUCH TECHNOLOGIES, INC.

ARTICLE I

Name

The name of the corporation is HighTouch Technologies, Inc. (the "Corporation").

ARTICLE II

Address of Initial Principal Office

The street address of the initial principal office of the Corporation is 111 Second Avenue NE, Suite 600, St. Petersburg, Florida 33701-3479.

ARTICLE III

Corporate Purpose

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the 1989 Business Corporation Act of the State of Florida (the "Business Corporation Act").

ARTICLE IV

Capital Stock

The aggregate number of shares of all classes of stock that the Corporation shall have authority to issue is 1,000, all of which shall be shares of Common Stock, $0.01 par value per share.

ARTICLE V

Directors

(1) The names and addresses of the persons who are to serve as directors until the next annual meeting of shareholders or until their successors are elected and shall qualify are as follows:

Name	Address
Simon B. Ruddick	111 Second Avenue NE, Suite 600, St. Petersburg, Florida 33701-3479.
Michael Hamer	111 Second Avenue NE, Suite 600, St. Petersburg, Florida 33701-3479.

(2) Elections of directors of the Corporation need not be by written ballot.

(3) To the fullest extent permitted by the Business Corporation Act as it now exists and as it may hereafter be amended, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

ARTICLE VI

Officers

The names, titles and addresses of the persons who are to serve as officers until their successors are elected and shall qualify are as follows:

Name: Title	Address
Jared S. Hechtkopf President and Treasurer	111 Second Avenue NE, Suite 600, St. Petersburg, Florida 33701-3479.
William D. Lovell Vice President and Secretary	111 Second Avenue NE, Suite 600, St. Petersburg, Florida 33701-3479.

ARTICLE VII

Indemnification of Directors, Officers and Others

(1) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of

the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(2) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the appropriate court of the State of Florida or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the appropriate court in the State of Florida or such other court shall deem proper.

(3) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections (1) and (2) of this Article VI, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(4) Any indemnification under Sections (1) and (2) of this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in such Sections (1) and (2). Such determination shall be made (a) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (b) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (c) by the stockholders.

(5) Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article VI. Such expenses (including attorneys' fees) incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors of the Corporation deems appropriate.

(6) The indemnification and advancement of expenses provided by, or granted pursuant to, the other sections of this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any law, by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(7) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of Section 607.0850 of the Business Corporation Act.

(8) For purposes of this Article VI, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(9) For purposes of this Article VI, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves service by, such director, officer, employee or agent with respect to any employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article VI.

(10) The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VI shall, unless otherwise provided when authorized or ratified, continue

as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE VIII

By-Laws

The directors of the Corporation shall have the power to adopt, amend or repeal by-laws.

ARTICLE IX

Amendment

The Corporation reserves the right to amend, alter, change or repeal any provision of these Articles of Incorporation, in the manner now or hereafter prescribed by law, and all rights conferred on stockholders in this Article of Incorporation are subject to this reservation.

ARTICLE X

Street Address of Registered Agent

The street address of the registered office of the Corporation is Angell Corporate Services, Inc., located at 250 Royal Palm Way, Suite 300, Palm Beach, Florida 33480 (the "Registered Agent").

ARTICLE XI

Incorporator

The name and mailing address of the incorporator to these Restated Articles of Incorporation is as follows:

Name	Mailing Address
Nancy E. Robertson	Shearman & Sterling 555 California Street, 20th Floor San Francisco, CA 94104