

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	03/15/2004

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Cardiff Software, Inc.		03/15/2004	CORPORATION: CALIFORNIA

RECEIVING PARTY DATA

Name:	Verity, Inc.
Street Address:	3220 Executive Ridge Drive
City:	Vista
State/Country:	CALIFORNIA
Postal Code:	92081
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Serial Number:	78002385	LIQUIDOFFICE

CORRESPONDENCE DATA

Fax Number: (619)699-2701
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 61-699-2747
 Email: sdtrademark@dlapiper.com
 Correspondent Name: Kristin K. Manley
 Address Line 1: 401 B. Street, Suite 1700
 Address Line 2: DLA Piper Rudnick Gray Cary US LLP
 Address Line 4: San Diego, CALIFORNIA 92101

NAME OF SUBMITTER:	Kristin Manley
Signature:	/kmanley/
Date:	07/25/2005

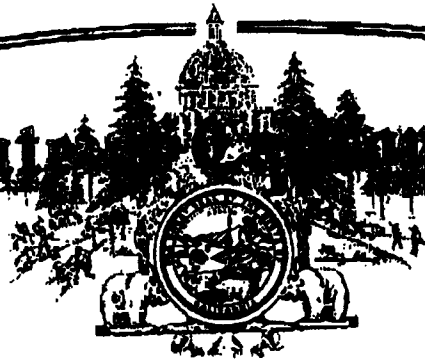
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State of California



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SECRETARY OF STATE

I, *Kevin Shelley*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 22 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 15 2004



Kevin Shelley
Secretary of State

AUBU0001

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 15 2004

KEVIN SHELLEY
Secretary of State

AGREEMENT OF MERGER
OF
COLT ACQUISITION CORP.
WITH AND INTO
CARDIFF SOFTWARE, INC.

This Agreement of Merger (this "*Agreement*") is entered into as of March 15, 2004, by and between Colt Acquisition Corp., a California corporation ("*Merger Sub*") and Cardiff Software, Inc., a California corporation (the "*Company*"). Certain capitalized terms used in this Agreement are defined in Exhibit A hereto.

RECITALS:

WHEREAS, Verity, Inc., a Delaware corporation ("*Parent*"), Merger Sub, the Company and Robert Wadsworth as the Shareholders' Representative (the "*Shareholders' Representative*") have made and entered into an Agreement and Plan of Merger dated February 2, 2004 (the "*Merger Agreement*") pursuant to which each such party made certain representations, warranties, covenants and agreements in connection with the transactions contemplated hereby and, accordingly, the Merger Agreement and this Agreement are intended to be construed together to effectuate their purpose.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Merger Sub and the Company hereby agree as follows:

AGREEMENT:

1. Agreement to Acquire the Company. Subject to the terms of this Agreement, the Company shall be acquired by Parent through a merger of Merger Sub with and into the Company (the "*Merger*").
2. Effective Time. The Merger shall become effective at such time (the "*Effective Time*") as this Agreement and the officers' certificates of the Company and Merger Sub are filed with the Secretary of State of the State of California pursuant to Section 1103 of the California General Corporation Law (the "*CGCL*").
3. Surviving Corporation. At the Effective Time, Merger Sub shall be merged with and into the Company, the Company shall survive (the "*Surviving Corporation*") as a wholly owned subsidiary of Parent and all of the property, rights, privileges, powers, and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation and shall continue unaffected and unimpaired by the Merger. At the Effective Time, the separate existence of Merger Sub shall cease.

4. Effect of the Merger. The Merger shall have the effects set forth in Section 1107 of the CGCL.

5. Further Action. If, at any time after the Effective Time, any further action is determined by Parent to be necessary or desirable to carry out the purposes of this Merger Agreement or to vest the Surviving Corporation or Parent with full right, title and possession of and to all rights and property of Merger Sub and the Company, the officers and directors of the Surviving Corporation and Parent shall be fully authorized (in the name of Merger Sub, in the name of the Company and otherwise) to take such action.

6. Organization of the Company.

a. The Company was incorporated under the laws of the State of California on April 26, 1991.

b. The Company is authorized to issue an aggregate of 40,000,000 shares of Common Stock (without par value) ("*Company Common Stock*") and 15,000,000 shares of Preferred Stock ("*Company Preferred Stock*"), 138,496 shares of which have been designated "Series A Preferred Stock" (without par value) ("*Series A Preferred Stock*"), 174,368 shares of which have been designated "Series A-1 Preferred Stock" (without par value) ("*Series A-1 Preferred Stock*"), 6,869,154 shares of which have been designated "Series B Preferred Stock" (without par value) ("*Series B Preferred Stock*") and 4,000,000 shares of which have been designated "Series C Preferred Stock" (without par value) ("*Series C Preferred Stock*").

c. As of the record date for purposes of voting on the Merger, 13,729,687 shares of Company Common Stock were outstanding, 138,496 shares of Series A Preferred Stock were outstanding, 174,368 shares of Series A-1 Preferred Stock were outstanding, 6,869,154 shares of Series B Preferred Stock were outstanding and 2,949,252 shares of Series C Preferred Stock were outstanding.

7. Organization of Merger Sub.

a. Merger Sub was incorporated under the laws of the State of California on January 22, 2004.

b. Merger Sub is authorized to issue an aggregate of 100 shares of Common Stock, \$0.001 par value per share ("*Subsidiary Stock*").

c. As of the record date for purposes of voting on the Merger, an aggregate of 100 shares of Subsidiary Stock were outstanding.

8. Merger Consideration: Effect on Shares.

a. At the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Sub, the Company or any shareholder of the Company:

i. each share of Series A Preferred Stock, no par value, of the Company outstanding immediately prior to the Effective Time (excluding any shares of Series A Preferred Stock converted into Company Common Stock prior to the Effective Time) shall be converted into the right to receive \$0.26 in cash (reduced by amounts to be withheld pursuant to Sections 8(c) and 8(d) below);

ii. each share of Series A-1 Preferred Stock, no par value, of the Company outstanding immediately prior to the Effective Time (excluding any shares of Series A-1 Preferred Stock converted into Company Common Stock prior to the Effective Time) shall be converted into the right to receive \$0.5735 in cash (reduced by amounts to be withheld pursuant to Sections 8(c) and 8(d) below);

iii. each share of Series B Preferred Stock, no par value, of the Company outstanding immediately prior to the Effective Time (excluding any shares of Series B Preferred Stock converted into Company Common Stock prior to the Effective Time) shall be converted into the right to receive, in cash, the sum of (A) \$1.52 plus (B) the amount of all accrued and unpaid dividends on each share of Series B Preferred Stock immediately prior to the Effective Time plus (C) the Residual Per Share Amount (calculated pursuant to Section 8(b) below) (such sum to be reduced by amounts to be withheld pursuant to Sections 8(c) and 8(d) below);

iv. each share of Series C Preferred Stock, no par value, of the Company outstanding immediately prior to the Effective Time (excluding any shares of Series C Preferred Stock converted into Company Common Stock prior to the Effective Time) shall be converted into the right to receive \$3.59 in cash (reduced by amounts to be withheld pursuant to Sections 8(c) and 8(d) below);

v. any shares of Company Common Stock owned by Parent, Merger Sub or any direct or indirect wholly owned subsidiary of Parent, Merger Sub or the Company immediately prior to the Effective Time shall be canceled without payment of any consideration with respect thereto;

vi. each share of Company Common Stock outstanding immediately prior to the Effective Time (other than shares of Company Common Stock described in clause "(v)" above) shall be converted into the right to receive an amount in cash equal to the Residual Per Share Amount (calculated pursuant to Section 8(b) below) (reduced by amounts to be withheld pursuant to Sections 8(c) and 8(d) below);
and

vii. each share of Subsidiary Stock outstanding immediately prior to the Effective Time shall be converted into one share of common stock of the Surviving Corporation.

b. The "*Residual Per Share Amount*" shall be calculated as follows:

$$\frac{\$66,000,000 - A - B - C + D}{E}$$

A = The Cash Adjustment Amount. If the Adjusted Closing Cash Balance is less than \$13,000,000, then the "*Cash Adjustment Amount*" shall be equal to \$13,000,000 minus the Adjusted Closing Cash Balance. If the Adjusted Closing Cash Balance is equal to or greater than \$13,000,000, then the "*Cash Adjustment Amount*" shall be zero. The "*Adjusted Closing Cash Balance*" shall be equal to (i) the dollar amount of the Company's cash balances immediately after the Effective Time, plus (ii) the aggregate dollar amount of any Transaction Expenses of the Acquired Corporations paid in cash by the Company during the period from the date of the Merger Agreement through the Effective Time (the "*Pre-Closing Period*"), minus (iii) the aggregate dollar amount received by the Company in connection with the exercise of Company Options during the period from December 31, 2003 through the Effective Time.

B = The Aggregate Company Transaction Expense Amount.

C = The Aggregate Liquidation Preference. The "*Aggregate Liquidation Preference*" shall be the sum of: (i) the product of \$0.26 multiplied by the aggregate number of shares of Series A Preferred Stock outstanding immediately prior to the Effective Time (excluding any shares of Series A Preferred Stock converted into Company Common Stock prior to the Effective Time); plus (ii) the product of \$0.5735 multiplied by the aggregate number of shares of Series A-1 Preferred Stock outstanding immediately prior to the Effective Time (excluding any shares of Series A-1 Preferred Stock converted into Company Common Stock prior to the Effective Time); plus (iii) the product of (A) the aggregate number of shares of Series B Preferred Stock outstanding immediately prior to the Effective Time (excluding any shares of Series B Preferred Stock converted into Company Common Stock prior to the Effective Time) (the "*Outstanding Series B Share Number*") multiplied by (B) the sum of \$1.52 plus the Accrued Series B Dividend Per Share Amount; plus (iv) the product of \$3.59 multiplied by the aggregate number of shares of Series C Preferred Stock outstanding immediately prior to the Effective Time (excluding any shares of Series C Preferred Stock converted into Company Common Stock prior to the Effective Time).

D = The Aggregate Exercise Amount. The "*Aggregate Exercise Amount*" shall be the sum of (i) the aggregate dollar amount actually received by the Company in connection with the exercise of Company Options during the Pre-Closing Period, plus (ii) the aggregate dollar amount that would be received by the Company if all of the Company Options outstanding as of the Effective Time (excluding any Company Options exercised prior to the Effective Time) were exercised prior to the Effective Time; provided, however, that any Company Option that has an exercise price per share that exceeds the Residual Per Share Amount shall, for purposes of calculating the "*Aggregate Exercise Amount*," be deemed have an exercise price per share equal to the Residual Per Share Amount.

E = The Fully Diluted Company Share Number. The "*Fully Diluted Company Share Number*" shall be the sum of (i) the aggregate number (the "*Outstanding Common Share Number*") of shares of Company Common Stock outstanding immediately prior to the Effective Time (including any such shares that are subject to a repurchase option or risk of forfeiture under any restricted stock purchase agreement or other contract and any such shares issuable in connection with the conversion of shares of Company Preferred Stock as to which conversion notices have been given prior to the Effective Time), plus (ii) the aggregate number of shares of Company Common Stock purchasable under or otherwise subject to Company Options (whether vested or unvested) outstanding immediately prior to the Effective Time, plus (iii) the aggregate number of shares of Company Common Stock purchasable under or otherwise subject to warrants and other rights (other than Company Options) to acquire shares of Company Common Stock (whether or not immediately exercisable) outstanding immediately prior to the Effective Time, plus (iv) the Outstanding Series B Share Number, plus (v) the aggregate number of shares of Company Common Stock issuable upon the conversion of any convertible securities of the Company (other than shares of Company Preferred Stock) outstanding immediately prior to the Effective Time.

c. At the Effective Time, the Aggregate Indemnity Escrow Cash Amount (as defined below) shall be delivered by Parent to the Escrow Agent as a contribution to the Indemnity Escrow Fund on behalf of the Escrow Participants). If the Required Amendment Shareholder Vote is obtained and the Articles Amendment is filed with the Secretary of State of the State of California, then the Aggregate Indemnity Escrow Cash Amount shall be withheld from the consideration otherwise payable to the Non-Dissenting Shareholders pursuant to Section 8(a). Such amount shall be withheld on a pro rata basis based on the respective Proportionate Shares (as defined below) of the Non-Dissenting Shareholders. If the Required Amendment Shareholder Vote is not obtained, then the Aggregate Indemnity Escrow Cash Amount shall be withheld from the consideration otherwise payable to the Specified Shareholders pursuant to Section 8(a) as follows: (1) an amount determined by multiplying \$0.26 by the Indemnity Escrow Percentage (as defined below) shall be withheld with respect to each share of Series A Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series A Preferred Stock converted into Company Common Stock prior to the Effective Time); (2) an amount determined by multiplying \$0.5735 by the Indemnity Escrow Percentage shall be withheld with respect to each share of Series A-1 Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series A-1 Preferred Stock converted into Company Common Stock prior to the Effective Time); (3) an amount determined by multiplying the Special Series B Amount (as defined below) by the Indemnity Escrow Percentage shall be withheld with respect to each share of Series B Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series B Preferred Stock converted into Company Common Stock prior to the Effective Time); (4) no amount shall be withheld with respect to any shares of Series C Preferred Stock; and (5) an amount determined by multiplying the Residual Per Share Amount by the Indemnity Escrow Percentage shall be withheld with

respect to each share of Company Common Stock held by a Specified Shareholder immediately prior to the Effective Time. The Indemnity Escrow Fund shall be held by the Escrow Agent in accordance with the terms of the Merger Agreement and the Escrow Agreement and shall be disbursed solely in accordance with the terms of this Agreement and the Escrow Agreement. For purposes of this Agreement:

- i. the "*Aggregate Indemnity Escrow Cash Amount*" shall be 20% of the sum of (A) the Aggregate Liquidation Preference plus (B) the product of (I) the Residual Per Share Amount multiplied by (II) the Outstanding Participating Share Number;
- ii. the "*Indemnity Escrow Percentage*" shall be the percentage corresponding to the fraction having a numerator equal to the Aggregate Indemnity Escrow Cash Amount and having a denominator equal to the total consideration payable to all Specified Shareholders pursuant to Section 8(a) (disregarding amounts to be withheld pursuant to Sections 8(c) and 8(d));
- iii. the "*Outstanding Participating Share Number*" shall be the sum of the Outstanding Common Share Number plus the Outstanding Series B Share Number;
- iv. the "*Proportionate Share*" of a Non-Dissenting Shareholder shall be the fraction having a numerator equal to the total consideration payable to such Non-Dissenting Shareholder pursuant to Section 8(a) (disregarding amounts to be withheld pursuant to Sections 8(c) and 8(d)) and having a denominator equal to the total consideration payable to all Non-Dissenting Shareholders pursuant to Section 8(a) (disregarding amounts to be withheld pursuant to Sections 8(c) and 8(d));
- v. the "*Special Series B Amount*" shall be the dollar amount determined by dividing (A) the sum of (I) the product of the Outstanding Series B Share Number multiplied by the sum of (x) \$1.52 plus (y) the Accrued Series B Dividend Per Share Amount plus (z) the Residual Per Share Amount, plus (II) the product of the aggregate number of shares of Series C Preferred Stock held immediately prior to the Effective Time by any Specified Shareholder that also holds shares of Series B Preferred Stock immediately prior to the Effective Time multiplied by \$3.59, by (B) the Outstanding Series B Share Number; and
- vi. "*Specified Shareholders*" shall mean (A) holders of Company Common Stock that are Non-Dissenting Shareholders and (B) each Person that holds Company Preferred Stock immediately prior to the Effective Time and that has executed a written consent approving the principal terms of the Merger and the Articles Amendment.

d. At the Effective Time, the sum of \$250,000 (the "Aggregate Expense Escrow Cash Amount") shall be delivered by Parent to the Escrow Agent as a contribution to the Expense Escrow Fund. If the Required Amendment Shareholder Vote is obtained and the Articles Amendment is filed with the Secretary of State of the State of California, then the Aggregate Expense Escrow Cash Amount shall be withheld from the aggregate consideration otherwise payable to Non-Dissenting Shareholders pursuant to Section 8(a). Such amount shall be withheld on a pro rata basis based on the respective Proportionate Shares of the Non-Dissenting Shareholders. If the Required Amendment Shareholder Vote is not obtained, then the Aggregate Expense Escrow Cash Amount shall be withheld from the aggregate consideration otherwise payable to the Specified Shareholders pursuant to Section 8(a) as follows: (1) an amount determined by multiplying \$0.26 by the Expense Escrow Percentage (as defined below) shall be withheld with respect to each share of Series A Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series A Preferred Stock converted into Company Common Stock prior to the Effective Time); (2) an amount determined by multiplying \$0.5735 by the Expense Escrow Percentage shall be withheld with respect to each share of Series A-1 Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series A-1 Preferred Stock converted into Company Common Stock prior to the Effective Time); (3) an amount determined by multiplying the Special Series B Amount by the Expense Escrow Percentage shall be withheld with respect to each share of Series B Preferred Stock held by a Specified Shareholder immediately prior to the Effective Time (excluding any shares of Series B Preferred Stock converted into Company Common Stock prior to the Effective Time); (4) no amount shall be withheld with respect to any shares of Series C Preferred Stock; and (5) an amount determined by multiplying the Residual Per Share Amount by the Expense Escrow Percentage shall be withheld with respect to each share of Company Common Stock held by a Specified Shareholder immediately prior to the Effective Time. The "Expense Escrow Percentage" shall be the percentage corresponding to the fraction having a numerator equal to the Aggregate Expense Escrow Cash Amount and having a denominator equal to the total consideration payable to all Specified Shareholders pursuant to Section 8(a) (disregarding amounts to be withheld pursuant to Sections 8(c) and 8(d)). The Expense Escrow Fund shall be held by the Escrow Agent in accordance with the terms of the Merger Agreement and the Escrow Agreement and shall be disbursed in accordance with the terms of the Merger Agreement and the Escrow Agreement.

9. Employee Options.

a. At the Effective Time, all outstanding Company Options, whether vested or unvested, shall be assumed by Parent in accordance with the terms of the Company Option Plans (as defined in Section 9(b)) and the stock option agreements by which such Company Options are evidenced. All rights with respect to Company Common Stock under Company Options assumed by Parent shall thereupon be converted into rights with respect to common stock, par value \$0.001, of Parent ("Parent Common Stock"). Accordingly, from and after the

Effective Time, (i) each assumed Company Option may be exercised solely for shares of Parent Common Stock, (ii) the number of shares of Parent Common Stock subject to each such Company Option shall be determined by multiplying the number of shares of Company Common Stock that were subject to such Company Option immediately prior to the Effective Time by the Option Stock Fraction (as defined below), and rounding down to the nearest whole number of shares of Parent Common Stock, (iii) the per share exercise price for the Parent Common Stock issuable upon exercise of each such Company Option shall be determined by dividing the exercise price per share of Company Common Stock subject to such Company Option, as in effect immediately prior to the Effective Time, by the Option Stock Fraction, and rounding the resulting exercise price up to the nearest whole cent, and (iv) all restrictions on the exercise of each such Company Option shall continue in full force and effect, and the term, exercisability, vesting schedule and other provisions of such Company Option shall otherwise remain unchanged; provided, however, that each assumed Company Option shall, in accordance with its terms, be subject to further adjustment as appropriate to reflect any stock split, reverse stock split, stock dividend, recapitalization or other similar transaction declared, made or effected by Parent after the Effective Time. For purposes of this Section 9(a), the "*Option Stock Fraction*" shall be the fraction having a numerator equal to the Residual Per Share Amount and having a denominator equal to the average of the closing sale prices of a share of Parent Common Stock as reported on the Nasdaq National Market for each of the five consecutive trading days ending on the second trading day prior to the Closing Date (with such average to be adjusted as appropriate to reflect any stock split, reverse stock split, stock dividend, recapitalization or other similar transaction declared, made or effected by Parent during the period from the first of said five consecutive trading days through the Effective Time). Following the Closing, Parent will send to each holder of an assumed Company Option a written notice setting forth (x) the number of shares of Parent Common Stock subject to such assumed Company Option, and (y) the exercise price per share of Parent Common Stock issuable upon exercise of such assumed Company Option. Parent shall use commercially reasonable efforts to file with the Securities and Exchange Commission, within five business days after the Closing Date, a registration statement on Form S-8 registering the Parent Common Stock underlying the assumed Company Options.

(b) At the Effective Time, Parent shall assume the Company's 1997 Stock Incentive Plan and 2000 Stock Option Plan (collectively, the "*Company Option Plans*"). Under the Company Option Plans, Parent shall be able to grant stock awards, to the extent permissible under applicable Legal Requirements, using the share reserves of the Company Option Plans as of the Effective Time (including any shares returned to such share reserves as a result of the termination of Company Options that are assumed by Parent pursuant to Section 9(a)), except that (i) stock covered by such awards shall be shares of Parent Common Stock, and (ii) all references in the Company Option Plans to a number of shares of Company Common Stock shall be deemed amended to refer instead to a number of shares of Parent Common Stock equal to the product of the number of referenced shares of Company Common Stock multiplied by the Option Stock Fraction, rounded down to the nearest whole number of shares of Parent Common Stock.

10. Dissenting Shares.

a. Notwithstanding anything to the contrary contained in this Agreement, shares of Company Capital Stock that are or become "dissenting shares" within the meaning of Section 1300(b) of the CGCL ("*Dissenting Shares*") at or after the Effective Time shall not be converted into or represent the right to receive the consideration specified in Section 8, but shall be entitled only to such rights as are granted by the CGCL to Dissenting Shares.

b. Subject to Sections 8(c) and 8(d), if any Dissenting Shares shall lose their status as such (through failure to perfect or otherwise), then, as of the later of the Effective Time or the date of loss of such status, such shares shall automatically be converted into and shall represent only the right to receive consideration in accordance with Section 8, without interest thereon, after the surrender of the Company Stock Certificate (as defined in Section 11(b)) representing such shares.

c. The Company shall give Parent: (i) prompt notice of any written demand received by the Company prior to the Effective Time to require the Company to purchase shares of Company Capital Stock pursuant to the CGCL, any withdrawal of any such demand and any other demand, notice or instrument delivered to the Company prior to the Effective Time pursuant to the CGCL; and (ii) the opportunity to participate in all negotiations and proceedings with respect to any such demand, notice or instrument. The Company shall not make any payment or settlement offer prior to the Effective Time with respect to any such demand, notice or instrument unless Parent shall have consented in writing to such payment or settlement offer.

11. Exchange of Certificates.

a. On or prior to the Closing Date, Parent shall select a reputable bank or trust company to act as payment agent in the Merger (the "*Payment Agent*"). No later than two business days after the Effective Time, Parent shall deposit with the Payment Agent a sufficient amount of cash to make payments to the Non-Dissenting Shareholders in accordance with Section 8(a) (excluding amounts to be withheld pursuant to Sections 8(c) and 8(d)). The cash amount so deposited with the Payment Agent is referred to collectively as the "*Payment Fund*."

b. Prior to the Closing, the Company will cause to be delivered to shareholders of the Company (i) a letter of transmittal containing such provisions as Parent and the Payment Agent may reasonably specify (a "*Letter of Transmittal*"), and (ii) instructions for use in effecting the surrender of certificates previously representing shares of Company Capital Stock ("*Company Stock Certificates*"). After the surrender of a Company Stock Certificate to the Payment Agent for exchange at or after the Effective Time, together with a duly executed Letter of Transmittal and such other documents as may be reasonably required by Parent or the Payment Agent, the holder

of such Company Stock Certificate shall be entitled to receive in exchange therefor the cash consideration that such holder has the right to receive pursuant to Section 8(a) (excluding any amounts to be withheld pursuant to Sections 8(c) and 8(d)) and the Company Stock Certificate so surrendered shall be canceled. Until surrendered as contemplated by this Section 11, each Company Stock Certificate shall be deemed, from and after the Effective Time, to represent only the right to receive, after the surrender thereof, the consideration contemplated by Section 8. If any Company Stock Certificate shall have been lost, stolen or destroyed, Parent may, in its discretion and as a condition to the delivery of any consideration payable in the Merger, require the owner of such lost, stolen or destroyed Company Stock Certificate to provide an appropriate affidavit and to deliver a bond (in such sum as Parent may reasonably direct) as indemnity against any claim that may be made against Parent, the Surviving Corporation or the Payment Agent with respect to such Company Stock Certificate.

c. Any portion of the Payment Fund that remains undistributed to holders of Company Stock Certificates as of the date that is 180 days after the Closing Date shall be delivered to Parent upon demand, and any holders of Company Stock Certificates who have not theretofore surrendered their Company Stock Certificates in accordance with this Section 11 shall thereafter look only to Parent for payment of any consideration payable to such holder in the Merger.

d. Each of the Payment Agent, Parent and the Surviving Corporation shall be entitled to deduct and withhold from any consideration payable to any holder or former holder of Company Capital Stock pursuant to this Agreement such amounts as Parent or the Surviving Corporation determines in good faith are required to be deducted or withheld therefrom under the Code or under any other Legal Requirement. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

e. Neither Parent nor the Surviving Corporation shall be liable to any holder or former holder of Company Capital Stock for any consideration payable in the Merger that has been delivered to any public official in good faith pursuant to any applicable abandoned property law, escheat law or similar Legal Requirement.

12. Governing Documents.

a. At the Effective Time, the Company's Articles of Incorporation, as amended, shall be amended and restated in their entirety to read as set forth in Exhibit B attached hereto.

13. Directors and Officers. At the Effective Time, Anthony Bettencourt shall become the President and sole director of the Surviving Corporation and Steve Springsteel shall become the Chief Financial Officer and Secretary of the Surviving Corporation.

14. Amendment. This Agreement may be amended by the parties hereto any time before or after approval hereof by the shareholders of the Company, but after such approval, no amendment shall be made that by law requires the further approval of such shareholders without obtaining such approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

15. Termination.

a. Notwithstanding the approval of this Agreement by the holders of Company Capital Stock and the sole shareholder of Merger Sub, this Agreement shall terminate forthwith in the event that the Merger Agreement shall be terminated as set forth in Section 8 thereof.

b. Notwithstanding the approval of this Agreement by the holders of Company Capital Stock and the sole shareholder of Merger Sub, this Agreement may be terminated at any time prior to the Effective Time by mutual agreement of the boards of directors of each of the Company and Merger Sub.

c. In the event of termination of this Agreement as provided in this Section 15, this Agreement shall become null and void and there shall be no liability on the part of Parent, Merger Sub, the Company or any of their respective officers or directors, or the Shareholders' Representative except as otherwise provided in Section 8.3 of the Merger Agreement. This Agreement can only be terminated prior to the Effective Time.

16. Counterparts. In order to facilitate the filing and recording of this Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

17. Governing Law. This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of California (without giving effect to principles of conflicts of laws).

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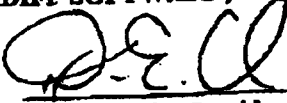
IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the date first set forth above.


COLT ACQUISITION CORP.

By: _____
Anthony J. Bettencourt, President

By: _____
Steven Springsteel, Secretary

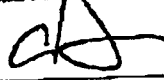
CARDIFF SOFTWARE, INC.


By:  _____
Dennis Clarke, President

By:  _____
Blake Clark, Secretary

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the date first set forth above.

COLT ACQUISITION CORP.

By: 
Anthony J. Bettencourt, President

By: 
Steven Springsteel, Secretary

CARDIFF SOFTWARE, INC.

By: _____
Dennis Clarke, President

By: _____
Blake Clark, Secretary

EXHIBIT A**Certain Definitions**

For purposes of the Agreement:

"Accrued Series B Dividend Per Share Amount" shall mean the amount of all accrued and unpaid dividends on each share of Series B Preferred Stock immediately prior to the Effective Time.

"Acquired Corporations" shall mean (i) the Company, (ii) each Subsidiary of the Company, and (iii) each corporation or other Entity that has been merged into or that otherwise is a predecessor to any of the Entities identified in clauses "(i)" and "(ii)" above.

"Aggregate Company Transaction Expense Amount" shall mean the aggregate dollar amount of (a) all Transaction Expenses (including legal fees and expenses, accounting fees and expenses, financial advisory fees and expenses and filing fees) that have been paid or incurred by or on behalf of the respective Acquired Corporations prior to the Effective Time, and (b) all Transaction Expenses that are payable or are expected to become payable or to be incurred by or on behalf of the respective Acquired Corporations at or after the Effective Time.

"Agreement" shall mean the Agreement of Merger to which this Exhibit A is attached.

"Articles Amendment" shall mean an amendment to the Articles of Incorporation of the Company satisfactory in form and substance to Parent and containing such provisions as Parent may determine to be appropriate in order to reflect and implement the provisions set forth in Section 8 of the Agreement.

"Closing" shall mean the consummation of the transactions contemplated by the Merger Agreement.

"Closing Date" shall mean the date on which the Closing actually takes place.

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

"Company Capital Stock" shall mean Company Common Stock and Company Preferred Stock.

"Company Option" shall mean an option to acquire shares of Company Common Stock from the Company, whether vested or unvested, granted by the Company pursuant to the terms of any Company Option Plan.

"Consent" shall mean any approval, consent, ratification, permission, waiver or authorization (including any Governmental Authorization).

"Contemplated Transactions" shall mean the transactions and other matters contemplated by the Merger Agreement, including (a) the Merger, (b) if the Required

Amendment Shareholder Vote is obtained, the adoption of the Articles Amendment, and (c) the solicitation and obtaining of written consents of the shareholders of the Company approving the principal terms of the Merger Agreement and approving the Articles Amendment.

"Contract" shall mean any legally binding, express or implied, written or oral agreement, contract, subcontract, lease, understanding, instrument, certificate, commitment, arrangement or undertaking.

"Disclosure Schedule" shall mean the schedule (dated as of the date of the Merger Agreement) delivered to Parent on behalf of the Company.

"Entity" shall mean any corporation (including any non profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

"Escrow Agent" shall mean U.S. Bank National Association.

"Escrow Agreement" shall mean the escrow agreement to be entered into among Parent, the Shareholders' Representative and the Escrow Agent on the Closing Date.

"Escrow Participants" shall mean (i) if the Required Amendment Shareholder Vote was obtained and the Articles Amendment filed with the Secretary of State of the State of California prior to the Closing, then the **"Escrow Participants"** shall be the Non-Dissenting Shareholders or (ii) if the Required Amendment Shareholder Vote was not obtained prior to the Closing, then the **"Escrow Participants"** shall be the Specified Shareholders.

"Expense Escrow Fund" shall mean the escrow fund established pursuant to the Escrow Agreement for the purpose of paying the expenses of the Shareholders' Representative incurred by the Shareholders' Representative.

"Governmental Authorization" shall mean any permit, license, certificate, franchise, permission, clearance, registration, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

"Governmental Body" shall mean any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi governmental authority of any nature (including any governmental division, department, agency, commission, instrumentality, official, organization, unit, body or Entity and any court or other tribunal); or (d) self-regulatory organization (including Nasdaq).

"Indemnitees" shall mean the following Persons: (a) Parent; (b) Parent's current and future affiliates (including the Surviving Corporation); (c) the respective Representatives of the Persons referred to in clauses "(a)" and "(b)" above; and (d) the respective successors and assigns of the Persons referred to in clauses "(a)", "(b)" and "(c)" above; provided, however, that

the Persons who were shareholders of the Company prior to the Effective Time shall not be deemed to be "Indemnitees."

"*Indemnity Escrow Fund*" shall mean the escrow fund established pursuant to the Escrow Agreement for the purpose of securing the indemnification and other rights of Parent and the other Indemnitees.

"*Information Statement*" shall mean an information statement accurately describing this Agreement, the Merger, the Articles Amendment, the other Contemplated Transactions and the provisions of Chapter 13 of the CGCL, and setting forth the fair market value of each class and series of Company Capital Stock as of the day prior to the date of this Agreement (excluding any appreciation or depreciation in connection with this Agreement, the Merger or the other Contemplated Transactions) as determined by the board of directors of the Company and delivered to the shareholders of the Company.

"*Legal Requirement*" shall mean any federal, state, local, municipal, foreign or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, order, award, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body.

"*Non-Dissenting Shareholder*" shall mean each shareholder of the Company that does not perfect such shareholder's dissenters' rights under the CGCL and is otherwise entitled to receive consideration pursuant to Section 8 of the Agreement.

"*Person*" shall mean any individual, Entity or Governmental Body.

"*Record Date*" shall mean the record date for the written consents of the shareholders of the Company approving the Articles Amendment and the principal terms of the Merger.

"*Required Amendment Shareholder Vote*" shall mean (a) the affirmative vote of the holders of (i) a majority of the shares of Company Capital Stock outstanding on the Record Date, voting together on an as-if converted to common stock basis as a single class, (ii) a majority of the shares of Company Preferred Stock outstanding on the Record Date, voting as a class, (iii) a majority of the shares of Series B Preferred Stock outstanding on the Record Date, voting as a class, and (iv) a majority of the shares of Series C Preferred Stock outstanding on the Record Date, voting as a class.

"*Representatives*" shall mean officers, directors, partners, trustees, executors, employees, agents, attorneys, accountants and advisors.

An Entity shall be deemed to be a "*Subsidiary*" of another Person if such Person directly or indirectly owns or purports to own, beneficially or of record, (a) an amount of voting securities of other interests in such Entity that is sufficient to enable such Person to elect at least a majority of the members of such Entity's board of directors or other governing body, or (b) at least 50% of the outstanding equity or financial interests or such Entity.

"Transaction Expense" shall mean any fee, cost, expense, payment, expenditure, liability (contingent or otherwise) or obligation (whether incurred prior to the date of the Merger Agreement, during the Pre-Closing Period or at or after the Effective Time) that:

(a) relates directly or indirectly to (i) the proposed disposition of all or a portion of the business of the Acquired Corporations, or the process of identifying, evaluating and negotiating with prospective purchasers of all or a portion of the business of the Acquired Corporations, (ii) the investigation and review conducted by Parent and its Representatives, and any investigation or review conducted by other prospective purchasers of all or a portion of the business of the Acquired Corporations, with respect to the business of the Acquired Corporations (and the furnishing of information to Parent and its Representatives and such other prospective purchasers and their Representatives in connection with such investigation and review), (iii) the negotiation, preparation, review, execution, delivery or performance of the Agreement (including the Disclosure Schedule), the Information Statement or any certificate, opinion, Contract or other instrument or document delivered or to be delivered in connection with any of the Contemplated Transactions, (iv) the preparation and submission of any filing or notice required to be made or given in connection with any of the Contemplated Transactions, and the obtaining of any Consent required to be obtained in connection with any of such transactions, or (v) the consummation of the Merger or any of the other Contemplated Transactions; or

(b) arises or is expected to arise, is triggered or becomes due or payable, in whole or in part, as a direct or indirect result of the consummation (whether alone or in combination with any other event or circumstance) of the Merger or any of the other Contemplated Transactions;

provided, however, that **"Transaction Expenses"** shall not include any employee severance or integration costs that are or may become payable as a result of actions taken after the Effective Time.

EXHIBIT B**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CARDIFF SOFTWARE, INC.****I.**

The name of this corporation is **CARDIFF SOFTWARE, INC.**

II.

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III.

The corporation is authorized to issue only one class of stock, to be designated Common Stock. The total number of shares of Common Stock presently authorized is One Thousand (1,000) shares.

IV.

The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(a) This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) for breach of duty to the corporation and its shareholders through bylaw provisions or through agreements with the agents, or through shareholder resolutions, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject to the limits on such excess indemnification set forth in Section 204 of the California Corporations Code.

(b) Any repeal or modification of this Article shall only be prospective and shall not affect the rights under this Article in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

COLT ACQUISITION CORP.
OFFICERS' CERTIFICATE

Anthony J. Bettencourt and Steven Springsteel hereby certify that:

1. They are the President and Secretary respectively, of Colt Acquisition Corp., a California corporation (the "*Merger Sub*").
2. The total number of outstanding shares of capital stock of the Merger Sub is 100 shares of common stock, \$0.001 par value per share (the "*Common Stock*").
3. The principal terms of the Agreement of Merger in the form attached were approved by the Merger Sub by a vote of the number of shares which equaled or exceeded the vote required.
4. The shareholder vote required for the aforesaid approval was the affirmative vote by the holders of a majority of the outstanding shares of the Common Stock.

On the date set forth below, in the City of Sunnyvale in the State of California, each of the undersigned does hereby declare under the penalty of perjury under the laws of the State of California that he signed the foregoing certificate in the official capacity set forth beneath his signature, and that the statements set forth in said certificate are true of his own knowledge.

Signed on March 15, 2004.

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IN WITNESS WHEREOF, the undersigned parties have executed this Officers' Certificate as of the date set forth above.

By: 
Anthony J. Bettencourt, President

By: 
Steven Springsteel, Secretary

CARDIFF SOFTWARE, INC.
OFFICERS' CERTIFICATE

Dennis Clerke and Blake Clark hereby certify that:

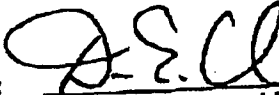
1. They are the President and Secretary, respectively, of Cardiff Software, Inc., a California corporation (the "*Company*").
2. The total number of outstanding shares of each class of the capital stock of the Company entitled to vote is as follows: (i) 13,729,687 shares of common stock, no par value, (ii) 138,496 shares of Series A Preferred Stock, no par value, (iii) 174,368 shares of Series A-1 Preferred Stock, no par value, (iv) 6,869,154 shares of Series B Preferred Stock, no par value, and (v) 2,949,252 shares of Series C Preferred Stock, no par value.
3. The principal terms of the Agreement of Merger in the form attached were approved by the Company by a vote of the number of shares which equaled or exceeded the vote required.
4. The shareholder vote required for the aforesaid approval was the affirmative vote of the holders of (i) a majority of the outstanding shares of the Company's common stock, no par value, voting together as a single class, (ii) a majority of the outstanding shares of the Company's preferred stock, no par value, voting together as a single class and (iii) a majority of the outstanding shares of the Company's Series C Preferred Stock, no par value, voting together as a single class.


On the date set forth below, in the City of San Diego in the State of California, each of the undersigned does hereby declare under the penalty of perjury under the laws of the State of California that he signed the foregoing certificate in the official capacity set forth beneath his signature, and that the statements set forth in said certificate are true of his own knowledge.

Signed on March 15, 2004.

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IN WITNESS WHEREOF, the undersigned parties have executed this Officers' Certificate as of the date set forth above.

By: 
Dennis Clarke, President

By: 
Blake Clark, Secretary



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