

**PATENT ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	Articles of Conversion
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
TitanKey Software, LLC	03/14/2005
<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	TitanKey Software, Inc.
<b>Street Address:</b>	PO BOX 240976
<b>City:</b>	Honolulu
<b>State/Country:</b>	HAWAII
<b>Postal Code:</b>	96824
<b>PROPERTY NUMBERS Total: 3</b>	
<b>Property Type</b>	<b>Number</b>
<b>Patent Number:</b>	6868498
<b>Application Number:</b>	10404631
<b>Application Number:</b>	11080144
<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	(312)962-5732
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
<b>Phone:</b>	808-386-3740
<b>Email:</b>	peter.uspto@cybercominc.com
<b>Correspondent Name:</b>	Peter Katsikas
<b>Address Line 1:</b>	PO BOX 240596
<b>Address Line 4:</b>	Honolulu, HAWAII 96824
<b>NAME OF SUBMITTER:</b>	Peter Katsikas

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**Total Attachments: 20**

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## Department of Commerce and Consumer Affairs

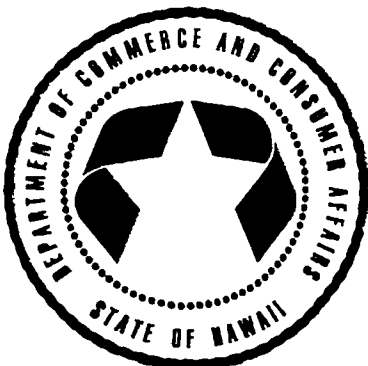
### CERTIFICATE OF CONVERSION

I, MARK E. RECKTENWALD, Director of Commerce and Consumer Affairs of the State of Hawaii, do hereby certify that pursuant to the Articles of Conversion of TITANKEY SOFTWARE, LLC, a Hawaii limited liability company, filed in this department on March 14, 2005, in accordance with the Hawaii Revised Statutes, TITANKEY SOFTWARE, LLC is hereby converted to TITANKEY SOFTWARE, INC., a Hawaii profit corporation, and that the conversion became effective on March 14, 2005, at 2:51 p.m.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Department of Commerce and Consumer Affairs, at Honolulu, State of Hawaii, this 14<sup>th</sup> day of March, 2005.

*Mark E. Rechtenwald*

Director of Commerce and Consumer  
Affairs



PATENT

REEL: 019193 FRAME: 0220

Nonrefundable Filing Fee: \$100.00  
\*Nonprofit \$50.00

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
Business Registration Division  
335 Merchant Street  
Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810



FILED 03/14/2005 02:51 PM  
Business Registration Division  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
State of Hawaii

ARTICLES OF CONVERSION

(Section 414-272, 415A-16.6, 414D-208, 425-193, 425E-1103, 429-902.6, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, submitting these Articles of Conversion, certify as follows:

1. The converting (original) entity was (check one):

- Profit Corp.     Professional Corp.     Nonprofit Corp.     General Partnership     Limited Partnership
- LLC     LLP (If LLP must also check General Partnership)     LLLP

2. The name and state/country of incorporation/formation/organization or qualification of the converting entity was:

9369C5 TitanKey Software, LLC Hawaii  
(Type/Print Entity Name) (State or Country)

3. The converted (new) entity is (check one):

- Profit Corp.     Professional Corp.     Nonprofit Corp.     General Partnership     Limited Partnership
- LLC     LLP (If LLP must also check General Partnership)     LLLP

4. The name and state/country of incorporation/formation/organization or qualification of the converted entity is:

211392D1 TitanKey Software, Inc. Hawaii  
(Type/Print Entity Name) (State or Country)

5. The Plan of Conversion has been approved in accordance to Section 414-271, 415A-16.5, 414D-202, 425-192, 425E-1102, 428-902.5, as applicable

6. An executed Plan of Conversion is on file at the principal place of business of the converting entity whose address is:

850 West Hind Drive, Suite 102, Honolulu, Hawaii 96821

7. A copy of the Plan of Conversion shall be furnished by the converting entity prior to the conversion or by the converted entity after the conversion on written request and without cost, to any shareholder, partner, member, or owner of the converting entity or the converted entity.

03/15/200520016

8 Complete the applicable section. The Plan of Conversion was approved by the converting entity as follows:

A. By vote of the shareholders of the converting domestic profit/professional corporation:

Number of Shares Outstanding	Class/Series	Number of Shares Voting For Conversion	Number of Shares Voting Against Conversion

OR

B. By vote of the converting domestic limited liability company:

Total Number of Authorized Votes	Number of Votes For the Conversion	Number of Votes Against the Conversion
3	3	0

GRK

OR

C.  The converting entity was a foreign profit corporation, a foreign limited liability company, a foreign limited partnership, a foreign limited liability limited partnership, a domestic or foreign nonprofit corporation, a domestic or foreign general partnership, or a domestic or foreign limited liability partnership. The approval of the Plan of Conversion was duly authorized and complied with the laws under which the converting entity was incorporated, formed, organized, or qualified.

OR

D.  The converting entity was a domestic limited partnership or a domestic limited liability limited partnership and that a majority of the general partners have agreed to the conversion.

9. The conversion is effective on the date and time of filing the Articles of Conversion or at a later date and time, no more than 30 days after the filing, if so stated. Check one of the following statements:

Conversion is effective on the date and time of filing the Articles of Conversion.

Conversion is effective on \_\_\_\_\_, at \_\_\_\_\_ m., Hawaiian Standard Time, which date is not later than 30 days after the filing of the Articles of Conversion.

I/we certify under the penalties of Section 414-20, 415A-25, 414D-12, 425-13, 425-172, 425E-208, and 428-1302, Hawaii Revised Statutes, as applicable, that I/we have read the above statements and that the same are true and correct.

Signed this 8th day of March, 2005

Peter K. Katsikas, Member

(Type/Print Name & Title)

(Signature)

(Type/Print Name & Title)

(Signature)

SEE INSTRUCTIONS ON REVERSE SIDE. The articles must be signed by an officer, partner, or other duly authorized representative of the converting entity.

03/15/200520016

**ARTICLES OF INCORPORATION  
OF  
TITANKEY SOFTWARE, INC.**

The undersigned, for the purpose of forming a corporation under the laws of the State of Hawaii, hereby makes and executes these Articles of Incorporation:

**ARTICLE I**

The name of the corporation shall be TitanKey Software, Inc. (the "Corporation")

**ARTICLE II**

The mailing address of the initial principal office of the Corporation is P.O. Box 240976, Honolulu, Hawaii 96824-0976. The Corporation may have such other offices within and without the State of Hawaii as the Board of Directors may designate.

**ARTICLE III**

The name of the Corporation's registered agent in the State of Hawaii is Peter K. Katsikas, a resident of the State of Hawaii. The street address of such registered agent and of the Corporation's registered office in the State of Hawaii is 850 West Hind Drive, Suite 102, Honolulu, Hawaii 96821.

**ARTICLE IV**

(A) **Classes of Stock.** The Corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Corporation is authorized to issue is 4,896,227 shares, no par value. 4,000,000 shares shall be Common Stock and 896,227 shares shall be Preferred Stock.

(B) **Rights, Preferences and Restrictions of Preferred Stock.** The Preferred Stock authorized by these Articles of Incorporation may be issued from time to time in one or more series. The first series of Preferred Stock shall be designated "Series Seed A Preferred Stock" and shall consist of 896,227 shares. The rights, preferences, privileges, and restrictions granted to and imposed on the Series Seed A Preferred Stock are as set forth below in this Article IV(B).

1. **Dividend Provisions.** The holders of shares of Series Seed A Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of the Corporation) on the Common Stock of the Corporation, at the rate of 8% of the original purchase price (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series Seed A Preferred Stock, payable quarterly when, as and if declared by the Board of Directors. Such dividends shall not be cumulative. After payment of such dividends, any

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additional dividends shall be distributed among the holders of Series Seed A Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock then held by each holder (assuming conversion of all such Series Seed A Preferred Stock into Common Stock).

2. **Liquidation.**

(a) **Preference.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of the Series Seed A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to \$0.53 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series Seed A Preferred Stock then held by them, plus declared but unpaid dividends. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series Seed A Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series Seed A Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) **Remaining Assets.** Upon the completion of the distribution required by Section 2(a) above, the remaining assets of the Corporation available for distribution to stockholders shall be distributed among the holders of the Series Seed A Preferred Stock and the Common Stock pro rata based on the number of shares of Common Stock held by each (assuming conversion of all such Series Seed A Preferred Stock into Common Stock).

(c) **Certain Acquisitions.**

(i) **Deemed Liquidation.** For purposes of this Section 2, a liquidation, dissolution, or winding up of the Corporation shall be deemed to occur if the Corporation shall sell, convey, or otherwise dispose of all or substantially all of its property or business or merge with or into or reorganize or consolidate with, or enter into a transaction or series of related transactions resulting in the disposition of all or substantially all of the Corporation's property or business or merger with or into or reorganization or consolidation with, any other corporation, limited liability company or other entity (any such transaction, a "Liquidation Transaction"), provided that none of the following shall be considered a Liquidation Transaction: (i) a merger, consolidation, sale, conveyance or other disposal of assets in which the stockholders of the Corporation immediately prior to such transaction own 50% or more of the voting power of the surviving corporation following such transaction, (ii) a consolidation with a wholly-owned subsidiary of the Corporation, (iii) a merger effected exclusively for the purpose of changing the domicile of the Corporation, or (iv) an equity financing in which the Corporation is the surviving corporation.

(ii) **Valuation of Consideration.** In the event of a deemed liquidation as described in Section 2(c)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability:

(1) If traded on a securities exchange or The Nasdaq Stock Market ("Nasdaq"), the value shall be based on a formula approved by the Board of Directors and derived from the closing prices of the securities on such exchange or Nasdaq over a specified time period;

(2) If actively traded over-the-counter, the value shall be based on a formula approved by the Board of Directors and derived from the closing bid or sales prices (whichever is applicable) of such securities over a specified time period; and

(3) If there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as specified above in Section 2(c)(ii)(A) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

(iii) **Notice of Liquidation Transaction.** The Corporation shall give each holder of record of Series Seed A Preferred Stock written notice of any impending Liquidation Transaction not later than 10 days prior to the stockholders' meeting called to approve such Liquidation Transaction, or 10 days prior to the closing of such Liquidation Transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such Liquidation Transaction. The first of such notices shall describe the material terms and conditions of the impending Liquidation Transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The Liquidation Transaction shall in no event take place sooner than 10 days after the Corporation has given the first notice provided for herein or sooner than 10 days after the Corporation has given notice of any material changes provided for herein. Notwithstanding the other provisions of these Articles of Incorporation, all notice periods or requirements in these Articles of Incorporation may be shortened or waived, either before or after the action for which notice is required, upon the written consent of the holders of a majority of the voting power of the outstanding shares of Series Seed A Preferred Stock that are entitled to such notice rights.

(iv) **Effect of Noncompliance.** In the event the requirements of this Section 2(c) are not complied with, the Corporation shall forthwith either cause the closing of the Liquidation Transaction to be postponed until the requirements of this Section 2 have been complied with, or cancel such Liquidation Transaction, in which event the rights, preferences, privileges and restrictions of the holders of Series Seed A Preferred Stock shall revert to and be the same as such rights, preferences, privileges and restrictions existing immediately prior to the date of the first notice referred to in Section 2(c)(iii).

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3. **Redemption.** The Preferred Stock is not redeemable.

4. **Conversion.** The holders of the Series Seed A Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) **Right to Convert.** Subject to Section 4(c), each share of Series Seed A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$0.53 by the Conversion Price applicable to such share, determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Conversion Price per share of Series Seed A Preferred Stock shall be \$0.53. Such initial Conversion Price shall be subject to adjustment as set forth in Section 4(d).

(b) **Automatic Conversion.** Each share of Series Seed A Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price at the time in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), the Corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), for an aggregate offering price of at least \$10,000,000 at a public offering price of at least \$10.00 per share, or (ii) the date specified by written consent or agreement of the holders of at least a majority of the then outstanding shares of Series Seed A Preferred Stock, voting together as a class on an as-converted basis.

(c) **Mechanics of Conversion.** Before any holder of Series Seed A Preferred Stock shall be entitled to convert such Series Seed A Preferred Stock into shares of Common Stock, the holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such series of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten public offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event any persons entitled to receive Common Stock upon conversion of such Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

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(d) **Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations.** The Conversion Price of the Series Seed A Preferred Stock shall be subject to adjustment from time to time as follows:

(i) **Issuance of Additional Stock below Purchase Price.** If the Corporation should issue, at any time after the date upon which any shares of Series Seed A Preferred Stock were first issued (the "Purchase Date" with respect to such series), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for such series in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 4(d)(i), unless otherwise provided in this Section 4(d)(i).

(A) **Adjustment Formula.** Whenever the Conversion Price is adjusted pursuant to this Section (4)(d)(i), the new Conversion Price shall be determined by multiplying the Conversion Price then in effect by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the "Outstanding Common") plus the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation, the term "Outstanding Common" shall include shares of Common Stock deemed issued pursuant to Section 4(d)(i)(E) below.

(B) **Definition of "Additional Stock".** For purposes of this Section 4(d)(i), "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(d)(i)(E)) by the Corporation after the Purchase Date) other than

(1) Common Stock issued pursuant to stock dividends, stock splits or similar transactions, as described in Section 4(d)(ii) hereof;

(2) Up to 472,461 shares of Common Stock issued or issuable to employees, consultants, officers or directors of the Corporation directly or pursuant to a stock option plan, restricted stock plan or agreement approved by the Board of Directors of the Corporation (including grants prior to the Purchase Date);

(3) Capital stock, or options or warrants to purchase capital stock, issued to financial institutions or lessors in connection with commercial credit arrangements, equipment financings, commercial property lease transactions or similar transactions approved by the Board;

(4) Shares of Common Stock or Preferred Stock issuable upon exercise of warrants, notes or other rights to acquire securities outstanding as of the date of these Articles of Incorporation;

(5) Shares of Common Stock issued or issuable upon conversion of the Series Seed A Preferred Stock;

(6) Shares of Common Stock issued or issuable in a firm commitment underwritten public offering prior to or in connection with which all outstanding shares of Series Seed A Preferred Stock will be automatically converted to Common Stock;

(7) Capital stock, or warrants or options to purchase capital stock, issued in connection with bona fide acquisitions, mergers or similar transactions, the terms of which are unanimously approved by the Board of Directors of the Corporation;

(8) Capital stock issued or issuable to an entity as a component of any business relationship with such entity for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Corporation's products or services or (C) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship with such entity are approved unanimously by the Board of Directors; and

(9) Common stock issued or issuable in any other transaction in which exemption from antidilution provisions is approved by the affirmative vote of at least a majority of the then-outstanding shares of Preferred Stock, voting together as a class.

(C) **No Fractional Adjustments.** No adjustment of the Conversion Price for the Series Seed A Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward.

(D) **Determination of Consideration.** In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof. In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board of Directors irrespective of any accounting treatment.

(E) **Deemed Issuances of Common Stock.** In the case of the issuance (whether before, on or after the applicable Purchase Date) of securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares

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of Common Stock (the "Common Stock Equivalents"), the following provisions shall apply for all purposes of this Section 4(d)(i):

(1) The aggregate maximum number of shares of Common Stock deliverable upon conversion, exchange or exercise (assuming the satisfaction of any conditions to convertibility, exchangeability or exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of any Common Stock Equivalents and subsequent conversion, exchange or exercise thereof shall be deemed to have been issued at the time such securities were issued or such Common Stock Equivalents were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related Common Stock Equivalents (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the Corporation (without taking into account potential antidilution adjustments) upon the conversion, exchange or exercise of any Common Stock Equivalents (the consideration in each case to be determined in the manner provided in Section 4(d)(i)(D)).

(2) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Corporation upon conversion, exchange or exercise of any Common Stock Equivalents including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of the Series Seed A Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the conversion, exchange or exercise of such Common Stock Equivalents.

(3) Upon the termination or expiration of the convertibility, exchangeability or exercisability of any Common Stock Equivalents, the Conversion Price of the Series Seed A Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Common Stock Equivalents that remain convertible, exchangeable or exercisable) actually issued upon the conversion, exchange or exercise of such Common Stock Equivalents.

(4) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Section 4(d)(i)(E)(1) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 4(d)(i)(E)(2) or 4(d)(i)(E)(3).

(F) **No Increased Conversion Price.** Notwithstanding any other provisions of this Section 4(d)(i), except to the limited extent provided for in Sections 4(d)(i)(E)(2) and 4(d)(i)(E)(3), no adjustment of the Conversion Price pursuant to this Section 4(d)(i) shall have the effect of increasing the Conversion Price above the Conversion Price in effect immediately prior to such adjustment.

(ii) **Stock Splits and Dividends.** In the event the Corporation should at any time after the Purchase Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of the Series Seed A Preferred Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 4(d)(i)(E).

(iii) **Reverse Stock Splits.** If the number of shares of Common Stock outstanding at any time after the Purchase Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Conversion Price for the Series Seed A Preferred Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) **Other Distributions.** In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 4(d)(ii), then, in each such case for the purpose of this Section 4(e), the holders of Series Seed A Preferred Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(f) **Recapitalizations.** If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 4 or in Section 2) provision shall be made so that the holders of the Series Seed A Preferred Stock shall thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of such Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the Conversion Price then in effect and the number of shares purchasable upon conversion of such Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

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(g) **No Impairment.** The Corporation will not, by amendment of its Articles of Incorporation (except in accordance with Section 6 hereof and applicable law) or through any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Preferred Stock against impairment.

(h) **No Fractional Shares and Certificate as to Adjustments.**

(i) No fractional shares shall be issued upon the conversion of any share or shares of the Series Seed A Preferred Stock, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of Series Seed A Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of Series Seed A Preferred Stock pursuant to this Section 4, the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of such Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series Seed A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Conversion Price for the Series Seed A Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of the Series Seed A Preferred Stock.

(i) **Notices of Record Date.** In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Series Seed A Preferred Stock to the address for each such holder as shown on the books of the Corporation, at least 10 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(j) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Series Seed A Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of such series of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be

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sufficient to effect the conversion of all then outstanding shares of such series of Preferred Stock. In addition to such other remedies as shall be available to the holder of such Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to these Articles of Incorporation.

(k) **Notices.** Any notice required by the provisions of this Section 4 to be given to the holders of shares of Series Seed A Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

(l) **Certificate as to Adjustments.** Upon the occurrence of each adjustment or readjustment of the Conversion Price for the Series Seed A Preferred Stock pursuant to this Section 4, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of the Series Seed A Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of Series Seed A Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Price at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of the Series Seed A Preferred Stock held by such holder.

(m) **Treatment.** Notwithstanding the above, and unless the holder has notified the Corporation in writing otherwise, for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to any Liquidation Transaction, as set forth in Article IV(B), Section 2(c) herein, each such holder of shares of Series Seed A Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such Series Seed A Preferred Stock into shares of Common Stock immediately prior to the liquidation, dissolution or winding up if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such Series Seed A Preferred Stock into shares of Common Stock. If any such holder shall be deemed to have converted shares of Series Seed A Preferred Stock into Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Series Seed A Preferred Stock that have not converted (or been deemed to have converted) into shares of Common Stock.

## 5. **Voting Rights.**

(a) **General.** Except as expressly provided by these Articles of Incorporation or as provided by law, the holders of Series Seed A Preferred Stock shall have the same voting rights as the holders of Common Stock and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and the holders of

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Common Stock and the Series Seed A Preferred Stock shall vote together as a single class on all matters. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held, and each holder of Series Seed A Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Series Seed A Preferred Stock could be converted. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Series Seed A Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(b) **Election of Directors.** The Board of Directors shall consist of three (3) members. The holders of shares of Series Seed A Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director, the holders of shares of Common Stock, voting as a separate class, shall be entitled to elect one (1) director, and the holders of the Series Seed A Preferred Stock and Common Stock, voting together as a single class, shall be entitled to elect the remaining one (1) director. For the purposes of this Section 5(b), when the holders of Series Seed A Preferred Stock and the holders of Common Stock vote together as a single class, the holder of each share of Series Seed A Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of Series Seed A Preferred Stock could be converted at the record date for determination of the shareholders entitled to vote for the election of directors, or if no such record date is established, at the date such vote is taken or any written consent of shareholders is solicited.

(i) In the case of any vacancy in the office of a director elected solely by the holders of Series Seed A Preferred Stock, a successor shall be elected to hold office for the unexpired term of such director by the affirmative vote of the holders of a majority of the then outstanding shares of Series Seed A Preferred Stock, given at a duly called special or annual meeting of such Shareholders or by an action by written consent for that purpose. Any director who shall have been elected by the holders of Series Seed A Preferred Stock may be removed during the aforesaid term of office, either for or without cause, by, and only by, the affirmative vote of the holders of a majority of the Series Seed A Preferred Stock, given at a duly called special or annual meeting of such shareholders or by an action by written consent for that purpose, and any such vacancy thereby created, shall be filled by the vote of the holders of a majority of the Series Seed A Preferred Stock represented at such meeting or in such consent.

(ii) In the case of any vacancy in the office of a director elected solely by the holders of Common Stock, a successor shall be elected to hold office for the unexpired term of such director by the affirmative vote of the holders of a majority of the shares of Common Stock, given at a duly called special or annual meeting of such shareholders or by an action by written consent for that purpose. Any director who shall have been elected by the holders of Common Stock may be removed during the aforesaid term of office, either for or without cause, by, and only by, the affirmative vote of the holders of a majority of the Common Stock, given at a duly called special or annual meeting of such shareholders or by an action by written consent for that purpose, and any such vacancy thereby created, shall be filled by the vote of the holders of a majority of the Common Stock represented at such meeting or in such consent.



(iii) In the case of any vacancy in the office of a director elected by the holders of Common Stock and the holders of Series Seed A Preferred Stock voting together as a single class, a successor shall be elected to hold office for the expired term of such director by the affirmative vote of the holders of a majority of the shares of Common Stock and Series Seed A Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis, given at a duly called special or annual meeting of such shareholders or by an action by written consent for that purpose. Any director who shall have been elected by the holders of Common Stock and the Series Seed A Preferred Stock voting together as a single class may be removed during the aforesaid term of office, either for or without cause, by, and only by, the affirmative vote of the holders of a majority of the Common Stock and the Series Seed A Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis, given at a duly called special or annual meeting of such shareholders or by an action by written consent for that purpose, and any such vacancy thereby created shall be filled by the vote of the holders of a majority of the Common Stock and Series Seed A Preferred Stock represented at such meeting or in such consent.

6. **Protective Provisions.** So long as any shares of Series Seed A Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (by amendment, merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series Seed A Preferred Stock, voting together as a single class on an as converted basis:

- (a) effect a Liquidation Transaction;
- (b) alter or change the rights, preferences or privileges of the shares of Series Seed A Preferred Stock so as to affect adversely the shares of such series;
- (c) increase or decrease (other than by conversion) the total number of authorized shares of Series Seed A Preferred Stock;
- (d) authorize the issuance of any security (other than Series Seed A Preferred Stock), including any other security convertible into or exercisable for any equity security, having a preference over, or being on a parity with, the Series Seed A Preferred Stock with respect to any rights, preferences or privileges including, but not limited to, voting, dividends, redemption, conversion or upon liquidation;
- (e) redeem repurchase or otherwise acquire (or pay into or set funds aside for a sinking fund for such purpose) any shares of the Corporation's Common Stock (other than the repurchase of shares of Common Stock at cost from employees, officers, directors or consultants of the Corporation pursuant to agreements under which the Corporation has the option to repurchase such shares at cost upon the termination of services or upon the occurrence of certain events, such as the termination of employment, or through the exercise of any right of first refusal);

(f) make any payment or declare any dividend or distribution on any shares of Common Stock (other than a dividend or distribution payable solely in shares of Common Stock);

(g) change the authorized number of directors; or

(h) amend the Corporation's Articles of Incorporation or Bylaws in a manner that adversely affects the rights, preferences or privileges of the Series Seed A Preferred Stock.

7. **Status of Converted Stock.** In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation. These Articles of Incorporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

(C) **Common Stock.**

1. **Dividend Rights.** Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when and as declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2. **Liquidation Rights.** Upon the liquidation, dissolution or winding up of the Corporation, or the occurrence of a Liquidation Transaction, the assets of the Corporation shall be distributed as provided in Section 2 of Article IV(B).

3. **Redemption.** The Common Stock is not redeemable.

4. **Voting Rights.** Each holder of Common Stock shall have the right to one vote per share of Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law.

ARTICLE V

(A) **Less Than Unanimous Consent.** Any action required by the Hawaii Revised Statutes to be taken at any annual or special meeting of shareholders, or any action which may be taken at any annual or special meeting of shareholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. The action shall be evidenced by one or more consents describing the action taken, signed before or after the intended effective date of the action by the requisite shareholders entitled to vote on the action, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records.

(B) **Prompt Notice.** Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given by the Corporation to those shareholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation as provided in subsection (C) of this Article V; provided, however, that the validity of the corporate action shall not be affected by the Corporation's failure to give such notice.

(C) **Record Date.** If not otherwise fixed under Section 414-123 or 414-127, Hawaii Revised Statutes (or successor statute), the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (A) of this Article V.

(D) **Effect of Consent.** Corporate action taken by written consent under this Article V shall have the effect of action duly taken at a shareholders' meeting, and a consent signed under this Article V shall have the effect of a meeting vote, and may be described as such in any document.

(E) **Transmission of Consent.** A telegram, cablegram, or other electronic transmission consenting to an action to be taken and transmitted by a shareholder, proxy of a shareholder, or person or persons authorized to act for a shareholder or proxy of a shareholder, shall be deemed to be written, signed, and dated for the purposes of this Article V; provided that the telegram, cablegram, or other electronic transmission sets forth or is delivered with information from which the Corporation may determine:

(1) That the telegram, cablegram, or other electronic transmission was transmitted by the shareholder, proxy of the shareholder, or person or persons authorized to act for the shareholder or proxy of the shareholder; and

(2) The date on which the shareholder, proxy of the shareholder, or authorized person or persons transmitted the telegram, cablegram, or other electronic transmission.

The date on which the telegram, cablegram, or other electronic transmission is transmitted shall be deemed to be the date on which the consent is signed. No consent given by telegram, cablegram, or other electronic transmission shall be deemed to have been delivered until the consent is reproduced in paper form and delivered to the Corporation.

(F) **Copy of Consent Sufficient.** Any copy, facsimile, or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used; provided that the copy, facsimile, or other reproduction shall be a complete reproduction of the entire original writing.

(G) **Cessation of Provisions.** The provisions of this Article V shall cease to be effective when shares of the Corporation's capital stock are listed on a national securities

exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(H) **Dissenters' Rights.** If proposed corporate action creating dissenters' rights under Section 414-342, Hawaii Revised Statutes (or successor statute) is requested by the Corporation to be approved by less than unanimous written consent of shareholders, the written consent or accompanying communication must state that shareholders are or may be entitled to assert dissenters' rights under Part XIV, Chapter 414, Hawaii Revised Statutes (or successor statute) (the "Part") and be accompanied by a copy of the Part; provided, however, that the Corporation shall not be required to submit such request, statement or copy of the Part to all shareholders. If such corporate action is taken with less than unanimous written consent of the shareholders, the Corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in Section 414-353, Hawaii Revised Statutes (or successor statute).

(I) **Amendment.** The provisions of this Article V may be repealed or amended only with the affirmative vote or consent of shareholders holding a majority of the outstanding shares of the Corporation at the effective time of such vote or consent.

(J) **Binding.** The provisions of this Article V shall be binding upon all present and future shareholders of the Corporation.

(K) **Duration.** The provisions of this Article V shall continue in effect in accordance with their terms indefinitely until repealed or amended in accordance with subsection (I) of this Article V.

THE FOREGOING PROVISIONS OF THIS ARTICLE V CONSTITUTE AN AGREEMENT AUTHORIZED BY SECTION 414-163, HAWAII REVISED STATUTES (OR ANY SUCCESSOR STATUTE). THIS ARTICLE V SHALL CONTINUE IN EFFECT NOTWITHSTANDING ANY AMENDMENT OR REPEAL OF APPLICABLE PROVISIONS OF SECTION 414-163, UNLESS CONTRARY TO APPLICABLE LAW.

## ARTICLE VI

The Board of Directors of the Corporation is expressly authorized to make, alter or repeal Bylaws of the Corporation.

## ARTICLE VII

(A) **Indemnification.** To the fullest extent permitted by applicable law, this Corporation is authorized to provide indemnification of (and advancement of expenses to) agents of this Corporation (and any other persons to which Hawaii Revised Business Corporation Act Law permits this Corporation to provide indemnification) through bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by the Hawaii Revised Business Corporation Act, subject only to limits created by applicable law (statutory or non-

statutory). with respect to actions for breach of duty to this Corporation, its stockholders, and others.

(B) **Amendments.** Any amendment, repeal or modification of the foregoing provisions of this Article VII shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of this Corporation with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.

#### ARTICLE VIII

GRK

The name and address of the incorporator is as follows:

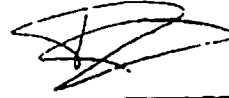
Peter K. Katsikas  
850 West Hind Drive, Suite 102  
Honolulu, Hawaii 96821

\* \* \*

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I certify that I have read the above statements and that the same are true and correct to the best of my knowledge and belief.

Executed this 14th day of March, 2005.



\_\_\_\_\_  
Peter K. Katsikas

MA

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