

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

F1700000478

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Email Address: smoore@incomm.com

2023 OCT 31 PM 5:06

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
 INCOMM HOLDINGS, INC.**

Certificate of Status	0
Certified Copy	0
Page Count	46
Estimated Charge	\$35.00

2023 OCT 31 PM 5:07

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COVER LETTER

TO: Amendment Section Division of Corporations

SUBJECT: InComm Holdings, Inc.

Name of Corporation

DOCUMENT NUMBER: F17000000478

The enclosed Amendment and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Debra Getts, Esq.

Name of Contact Person

Tobin, Reyces, Alvarez & De Biase, PLLC

Firm/Company

225 N.E. Mizner Boulevard, Suite 510

Address

Roca Raton, Florida 33432

smoore@incomm.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Debra Getts, Esq.

Name of Contact Person

at (561) 620-0656

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount:

\$35 Filing Fee

\$43.75 Filing Fee &
Certificate of Status

\$43.75 Filing Fee &
Certified Copy

\$52.50 Filing Fee,
Certificate of Status &
Certified Copy

Mailing Address:

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address:

Amendment Section
Division of Corporations
The Centre of Tallahassee
2415 N. Monroe Street, Suite 810
Tallahassee, FL 32303

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**PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO APPLICATION FOR
AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)**

**SECTION I
(1-3 MUST BE COMPLETED)**

F17000000478

(Document number of corporation (if known))

- 1. InComm Holdings, Inc.
(Name of corporation as it appears on the records of the Department of State)
- 2. Georgia (Incorporated under laws of)
- 3. February 1, 2017 (Date authorized to do business in Florida)

**SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)**

- 4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? March 21, 2017
- 5. HI Technology Corp
(Name of corporation after the amendment, adding suffix "corporation," "company," or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation)

(If new name is unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

- 6. If the amendment changes the period of duration, indicate new period of duration.

(New duration)

- 7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

(New jurisdiction)

- 8. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:

Name of New Registered Agent _____

(Florida street address)

New Registered Office Address: _____, Florida _____
(City) (Zip Code)

New Registered Agent's Signature, if changing Registered Agent:
I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.

Signature of New Registered Agent, if changing

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9. If the amendment changes person, title or capacity in accordance with 607.1504 (4), indicate that change:

<u>Title/ Capacity</u>	<u>Name</u>	<u>Address</u>	<u>Type of Action</u>
Director	Andrea Serra	250 Williams Street, Suite 5-2022, Atlanta, GA 30303	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove
Director	Daniel Kahra	250 Williams Street, Suite 5-2002, Atlanta, GA 30303	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove
Director	Mary Anne Citrino	250 Williams Street, Suite 5-2002, Atlanta, GA 30303	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove
Director	Mark Holt	250 Williams Street NW, Suite 5-2002, Atlanta, GA 30303	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
Director	Rob Pinatro	250 Williams Street NW, Suite 5-2002, Atlanta, GA 30303	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove

10. Attached is a certificate or document of similar import, evidencing the amendment, authenticated not more than 90 days prior to delivery of the application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the laws of which it is incorporated.



(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)

M. Brooks Smith

(Typed or printed name of person signing)

Director

(Title of person signing)

FILING FEE \$35.00

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9. If the amendment changes person, title or capacity in accordance with 607.1504 (4), indicate that change:

<u>Title/ Capacity</u>	<u>Name</u>	<u>Address</u>	<u>Type of Action</u>
CEO, Director, President	M. Brooks Smith	250 Williams Street NW, 5th floor, Suite 5-2002, Atlanta, GA 30303	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove
Director, CEO	M. Brooks Smith	250 Williams Street NW, 5th floor, Suite 5-2002, Atlanta, GA 30303	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
Director	Stefan Happ	250 Williams Street, Suite 5-2002, Atlanta, GA 30303	<input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove
Director, President	Stefan Happ	250 Williams Street NW, Suite 5-2002, Atlanta, GA 30303	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
			<input type="checkbox"/> Add <input type="checkbox"/> Remove

10. Attached is a certificate or document of similar import, evidencing the amendment, authenticated not more than 90 days prior to delivery of the application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the laws of which it is incorporated.



(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)

M. Brooks Smith

(Typed or printed name of person signing)

Director

(Title of person signing)

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Control Number : 0254807

STATE OF GEORGIA

Secretary of State
Corporations Division
313 West Tower
2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF EXISTENCE

I, **Brad Raffensperger**, the Secretary of State of the State of Georgia, do hereby certify under the seal of my office that

HI Technology Corp
a Domestic Profit Corporation

was formed in the jurisdiction stated below or was authorized to transact business in Georgia on the below date. Said entity is in compliance with the applicable filing and annual registration provisions of Title 14 of the Official Code of Georgia Annotated and has not filed articles of dissolution, certificate of cancellation or any other similar document with the office of the Secretary of State.

This certificate relates only to the legal existence of the above-named entity as of the date issued. It does not certify whether or not a notice of intent to dissolve, an application for withdrawal, a statement of commencement of winding up or any other similar document has been filed or is pending with the Secretary of State.

This certificate is issued pursuant to Title 14 of the Official Code of Georgia Annotated and is prima-facie evidence that said entity is in existence or is authorized to transact business in this state.

Docket Number : 26161388
Date Inc/Auth/Filed: 10/29/2002
Jurisdiction : Georgia
Print Date : 10/30/2023
Form Number : 211



Brad Raffensperger

Brad Raffensperger
Secretary of State

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Control Number : 0254807

STATE OF GEORGIA

Secretary of State

Corporations Division

313 West Tower

2 Martin Luther King, Jr. Dr.

Atlanta, Georgia 30334-1530

CERTIFIED COPY

I, **Brad Raffensperger**, the Secretary of State of the State of Georgia, do hereby certify under the seal of my office that the attached documents are true and correct copies of documents filed with the Corporations Division of the Office of the Secretary of State of Georgia under the name of

HI Technology Corp
a Domestic Profit Corporation

This certificate is issued pursuant to Title 14 of the Official Code of Georgia Annotated and is prima-facie evidence of the existence or nonexistence of the facts stated herein.

Docket Number : 26161354
Date Inc/Auth/Filed: 10/29/2002
Jurisdiction : Georgia
Print Date : 10/30/2023
Form Number : 215



Brad Raffensperger

Brad Raffensperger
Secretary of State

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Control Number : 0254807

STATE OF GEORGIA

Secretary of State

Corporations Division

313 West Tower

2 Martin Luther King, Jr. Dr.

Atlanta, Georgia 30334-1530

CERTIFICATE OF AMENDMENT

NAME CHANGE

I, Brian P. Kemp, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

INCOMM HOLDINGS, INC.

a Domestic Profit Corporation

has filed articles/certificate of amendment in the Office of the Secretary of State on 03/21/2017 changing its name to

HI Technology Corp

a Domestic Profit Corporation

and has paid the required fees as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said articles/ certificate of amendment.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on 03/22/2017



Brian P. Kemp
Secretary of State

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ARTICLES OF AMENDMENT
TO THE RESTATED ARTICLES OF INCORPORATION
OF
INCOMM HOLDINGS, INC.

InComm Holdings, Inc. (the "Corporation"), a corporation organized and existing under and by virtue of the provisions of the Georgia Business Corporation Code, **DOES HEREBY CERTIFY THAT:**

1. The name of the corporation is INCOMM HOLDINGS, INC.

2. Article I of the Restated Articles of Incorporation of the Corporation is amended by deleting such Article I in its entirety and replacing it with the following Article I:

I.

HI Technology Corp shall be the name of the Corporation.

3. Article III of the Restated Articles of Incorporation of the Corporation is amended by deleting such Article III in its entirety and replacing it with the following Article III:

III.

The total number of shares of all classes of stock which the Corporation shall have authority to issue is (i) 100,000,000 shares of Common Stock, no par value per share ("Common Stock"), and (ii) 8,824,897 shares of Preferred Stock, no par value per share ("Preferred Stock"), which Preferred Stock shall be in the form of 4,672,897 shares of Series A preferred Stock ("Series A Preferred Stock") and 4,152,000 shares of Series B preferred Stock ("Series B Preferred Stock").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

Subject to all of the rights of the Preferred Stock as expressly provided herein or by law, the Common Stock of the Corporation shall possess all such rights and privileges as are afforded to capital stock by the Georgia Business Corporation Code in the absence of any express grant of rights or privileges provided for herein, including, but not limited to, the following rights and privileges:

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(i) dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Corporation legally available for the payment of dividends;

(ii) the holders of Common Stock shall have the right to vote for the election of directors and on all other matters requiring shareholder action, each share being entitled to one vote; and

(iii) upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation available for distribution shall be distributed pro rata to the holders of the Common Stock in accordance with their respective rights and interests.

B. PREFERRED STOCK

4,672,897 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series A Preferred Stock**" and 4,152,000 shares of the authorized and unissued Preferred Stock of the Corporation are hereby designated "**Series B Preferred Stock**" with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "Sections" or "Subsections" in this Part B of this Article III refer to sections and subsections of Part B of this Article III.

I. Dividends.

1.1. From and after the date of the issuance of any shares of Series A Preferred Stock, dividends at the rate per annum of \$1.3375 per share (subject to increase according to Section 6.3, the "**Base Dividend Rate**") shall accrue on such shares of Series A Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock) (the "**Accruing Dividends**"). Accruing Dividends shall accrue from day to day, whether or not declared, and shall be cumulative and shall compound semi-annually. Accruing Dividends shall be paid on or before August 30, 2015, August 30, 2017 and on or before each March 31, June 30, September 30 and December 31 after August 30, 2017, which payments shall be made in cash (each such payment an "**Accruing Dividend Payment**"). If the Corporation fails to make an Accruing Dividend Payment when due, whether or not declared (an "**Accruing Dividend Payment Default**"), upon prior written notice from the holders of a majority of the Series A Preferred Stock then outstanding (the "**Series A Majority**") to the Corporation, the rate at which the Accruing Dividends shall accrue shall increase to \$2.14 per share per annum (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock) (the "**Default Dividend Rate**") unless such Accruing Dividend Payment Default is cured prior to the 90th day after the Corporation's receipt of such written notice of such Accruing Dividend Payment Default. In respect of any Accruing Dividend Payment Default for which the Default Dividend Rate has become effective, the Accruing Dividends shall continue accruing at the Default Dividend Rate until the Corporation shall make all past due Accruing Dividend Payments, at which time the Base Dividend Rate shall, and the Default Dividend Rate shall no longer, be effective. The "**Series A Original Issue Price**" shall mean \$26.75 per share, subject to appropriate adjustment in the event

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of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock.

1.2. From and after the date of issuance of any share of Series B Preferred Stock, dividends shall accrue on such shares of Series B Preferred Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock) at the rate per annum as follows (the "Series B Accruing Dividends"):

(i) until the date that is the one (1) year anniversary of the date of issuance of any share of Series B Preferred Stock (as defined below), \$9.0318 (the "First Year Dividend") shall accrue on such share of Series B Preferred Stock, but only during such one year period and not thereafter; provided that the First Year Dividend shall not exceed \$9.0318;

(ii) beginning with the date that is one day after the one (1) year anniversary of the of the date of issuance of any share of Series B Preferred Stock until the date that is the next anniversary of the date of issuance of any share of Series B Preferred Stock and continuing each one year period thereafter until the seven (7) year anniversary of the date of issuance of any share of Series B Preferred Stock (the "Annual Dividend"), \$3.6127 annually shall accrue on such share of Series B Preferred Stock, but only during each such one year period and not thereafter; provided that the Annual Dividend shall not exceed \$3.6127 during any such one year period. For example, for any share of Series B Preferred Stock issued on the Series B Original Issue Date: from the date commencing on the Series B Original Issue Date until the second anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividend shall not exceed \$12.6445; from the Series B Original Issue Date until the three (3) year anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividends shall not exceed \$16.2572; from the Series B Original Issue Date until the four (4) year anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividend shall not exceed \$19.8699; from the Series B Original Issue Date until the five (5) year anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividend shall not exceed \$23.4826; from the Series B Original Issue Date until the six (6) year anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividend shall not exceed \$27.0953; and from the Series B Original Issue Date until the seven (7) year anniversary of the Series B Original Issue Date, the sum of the First Year Dividend and the Annual Dividend shall not exceed \$30.7080;

(iii) from and after the date that is one day after the seven (7) year anniversary of the issuance of any share of Series B Preferred Stock until the date that is the eight (8) year anniversary of issuance of any share of Series B Preferred Stock, \$5.4191 shall accrue on such share of Series B Preferred Stock, but only during such one year period and after which, the Series B Accruing Dividends shall no longer accrue; and

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(iv) no additional dividends shall accrue on any share of Series B Preferred Stock after the date that is the eight (8) year anniversary of the issuance of such share of Series B Preferred Stock.

For avoidance of doubt and notwithstanding anything set forth in this Section 1.2 or otherwise in these Amended and Restated Articles of Incorporation, in no event shall the Series B Accruing Dividends be greater than two (2) times the Series B Original Issue Price.

The Series B Accruing Dividends shall accrue on a quarterly basis whether or not declared, and shall be cumulative and shall not compound; provided, that, in the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the amount of Series B Accruing Dividends shall be calculated as of the date that is the next anniversary of the date of issuance of such shares of Series B Preferred Stock to occur after such liquidation, dissolution or winding up of the Corporation or such Deemed Liquidation Event (e.g., if a Deemed Liquidation Event occurs on December 31, 2017, the amount of Series B Accruing Dividends shall be calculated as if such Deemed Liquidation Event occurred on March 21, 2018)) (the "Series B Accruing Dividend Calculation Method").

(v) "Series B Original Issue Price" shall mean \$36.127 per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series B Preferred Stock.

1.3. For so long as the Series A Preferred Stock remains outstanding, the Corporation shall not declare, pay or set aside any dividends or distributions (other than (i) Accruing Dividends and Series B Accruing Dividends, (ii) Permitted Dividends (as defined below), (iii) dividends on shares of Common Stock payable in shares of Common Stock and (iv) the Special Dividends (as defined below)) on shares of any other class or series of capital stock of the Corporation without the approval of at least a majority of the votes attributable to the then-outstanding shares of Series A Preferred Stock, and for so long as the Series B Preferred Stock remains outstanding, the Corporation shall not declare, pay or set aside any dividends or distributions (other than (i) Accruing Dividends and Series B Accruing Dividends, (ii) Permitted Dividends, (iii) dividends on shares of Common Stock payable in shares of Common Stock and (iv) the Special Dividends) on shares of any other class or series of capital stock of the Corporation without the approval of at least a majority of the votes attributable to the then-outstanding shares of Series B Preferred Stock. In the event such approval is granted, in addition to the obtaining of any consents required elsewhere in these Articles of Incorporation, the holders of the Series A Preferred Stock and Series B Preferred Stock (other than the Special Dividends) then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount equal to that dividend per share of Preferred Stock as would equal the product of (1) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (2) the number of shares of Common Stock issuable upon conversion of a share of such Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend.

1.4. Special Definitions. For purposes of this Article III, the following definitions shall apply:

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1.4.1. "Permitted Dividend" shall mean a one-time per year cash dividend payable equally and ratably to the holders of Common Stock and the holders of Preferred Stock (on an as converted basis) after completion of the audited annual financial statements of the Corporation for such fiscal year in an aggregate amount not to exceed the Permitted Dividend Amount; provided, that such dividend shall be payable solely to the extent that (and shall not be a Permitted Dividend unless): (i) no Accruing Dividend Payment Default exists; and (ii) there is a cash reserve on the balance sheet of the Corporation in respect of Accruing Dividends that have accrued but have not been paid; provided, further, that the requirement for a cash reserve shall be deemed satisfied if, immediately after payment of such dividend, there is availability under the Corporation's senior credit facility to draw an amount equal to the amount of Accruing Dividends that have accrued but have not been paid.

1.4.2. "Permitted Dividend Amount" shall mean, in respect of any fiscal year (a) ten percent (10%) of the Consolidated Net Income of the Corporation earned during such fiscal year in the event that the Corporation's EBITDA for such year is less than the Permitted Dividend EBITDA Target for such fiscal year or (b) twenty-five percent (25%) of the Consolidated Net Income of the Corporation earned during such fiscal year in the event that the Corporation's EBITDA for such year is equal to or greater than the Permitted Dividend EBITDA Target for such fiscal year.

1.4.3. "Consolidated Net Income" shall mean, for any period, the aggregate net income (or loss) of the Corporation and its Subsidiaries (as defined below) for such period on a consolidated basis, determined in accordance with GAAP and without any deduction in respect of Accruing Dividends; provided, that there shall be excluded therefrom to the extent otherwise included, without duplication, (i) gains and losses from sales of assets in excess of \$8,750,000 and the related tax effects according to the United States Generally Accepted Accounting Principles ("GAAP"); (ii) realized and unrealized gains and losses due solely to fluctuations in currency values and the related tax effects according to GAAP; (iii) extraordinary, unusual or non-recurring charges, gains and losses (including, without limitation, all restructuring costs, acquisition and acquisition integration costs and fees, including cash severance payments made in connection with acquisitions, and any expense or charge related to the repurchase of Securities (as defined below) or warrants or options to purchase Securities), and the related tax effects according to GAAP, in each case, as mutually agreed upon by the Corporation, the Series A Majority and the Series B Majority (as defined below); (iv) the net income (but not loss) of any Subsidiary of the Corporation to the extent that the declaration of dividends or similar distributions by that Subsidiary of the Corporation of that income is prohibited by contract, operation of law or otherwise; (v) the net income of any Person, other than a Subsidiary of the Corporation, except to the extent of cash dividends or distributions paid to the Corporation or a Subsidiary of the Corporation by such Person; (vi) any non-cash compensation charges, including any arising from existing stock options resulting from any merger or recapitalization transaction; and (vii) amortization and impairment charges resulting from other purchase accounting adjustments with respect to any acquisition transactions; provided, however, that any gains, net income or loss (and related tax effects) in respect of any acquisition of any Person, assets or business (an "Acquired Business") shall be excluded from Consolidated Net Income for the year in which such Acquired Business was acquired. "Securities" means any outstanding shares of capital stock of the Corporation, including the outstanding shares of Common Stock and Preferred Stock.

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1.4.4. "Subsidiary" means, with respect to any Person, (a) any other Person of which an aggregate of more than 50% of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such other Person (or comparable body in the case of a Person that is not a corporation) is at the time, directly or indirectly, owned legally or beneficially by such Person and/or one or more Subsidiaries of such Person, (b) any partnership, limited liability company or other entity in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than 50%, and (c) any other Person, the management of which is controlled, directly or indirectly, by such Person.

1.4.5. "Person" means an individual, partnership, corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization, any other business entity, or any government, governmental or regulatory authority, agency, instrumentality, department, court, commission, body, tribunal or other governmental entity, whether foreign or domestic and whether national, federal, state, provincial or local.

1.4.6. "Permitted Dividend EBITDA Target" shall mean, in respect of any fiscal year (the "Target Year"), one hundred twenty percent (120%) of the Corporation's EBITDA during the immediately preceding fiscal year (the "Base Year"); provided, however, that any gains resulting from the acquisition of any Acquired Business and the net income or loss (and related tax effects) related thereto shall be excluded from the Consolidated Net Income and EBITDA of the Corporation for the Target Year unless such Acquired Business was acquired prior to the commencement of the Base Year; provided, further, however, that any gains, net income or loss (and related tax effects) in respect of any Acquired Business shall be excluded from Consolidated Net Income and EBITDA for the year in which such Acquired Business was acquired.

1.4.7. "EBITDA" shall mean, for any applicable measuring period, the sum of (i) Consolidated Net Income and (ii) to the extent Consolidated Net Income has been reduced thereby (a) all interest expense accrued; (b) all income, federal, state, foreign and other taxes with respect to income (and payments in lieu of income taxes) paid or accrued; (c) all depreciation and amortization expenses; (d) the costs of the issuance of any Capital Stock and the grant of any options, warrants or securities exchangeable or convertible into shares of Capital Stock; (e) the costs, expenses, charges or amortization related to any acquisition or merger; any earn-out payments and the acquisition of capital; and (f) any non-cash expenses or charges related to stock compensation and incentive equity grants; provided, however, that any gains, net income or loss (and related tax effects) in respect of any Acquired Business shall be excluded from EBITDA for the year in which such Acquired Business was acquired.

1.5 Notwithstanding anything to the contrary contained in this Article III or elsewhere in these Restated Articles of Incorporation, any Accruing Dividends, Series B Accruing Dividends, Series A Redemption, Series B Redemption, payments in connection with any Deemed Liquidation Event or any Qualifying Deemed Liquidation Event or other dividend, distribution, redemption obligation or other Restricted Payments (as defined in the Corporation's senior credit facility) shall be payable and paid solely to the extent (and shall not be payable or paid unless) such payment does not violate any terms of the Corporation's senior credit facility;

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provided that, for the avoidance of doubt, such amounts may continue to accrue in accordance with the terms hereof..

1.6 From and after the date of the issuance of any shares of Series B Preferred Stock until January 31, 2018, the Corporation (without the approval of the holders of the Series A Preferred Stock or Series B Preferred Stock) shall have the right to declare, pay or set aside one or more special dividends or distributions up to \$1.954785422 per share (subject to adjustment as provided in this Section) payable only to the holders of Series A Preferred Stock and/or the holders of Common Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Series A Preferred Stock) (the "**Special Dividends**"), which Special Dividends shall be in addition to, and separate and apart from the, Accruing Dividends payable to the holder of Series A Preferred Stock pursuant to Section 1.1 hereof. Special Dividends shall be paid on or before January 31, 2018, which payments shall be made in cash. All holders of Series B Preferred Stock waive any right to receive or participate in any Special Dividends. Notwithstanding anything to the contrary contained herein, (a) the Corporation shall distribute the Special Dividends on the outstanding shares of Series A Preferred Stock and/or the outstanding shares of Common Stock and shall not distribute such dividend on the outstanding shares of Series B Preferred Stock and (b) the Special Dividends shall not exceed \$100,000,000 (subject to adjustment as provided in this Section). Additionally, if declared by the Corporation as provided in this Section 1.6, the Special Dividends shall be: (i) paid before any other dividends or distributions, other than the Accruing Dividend which are payable to the holders of Series A Preferred Stock which shall be in parri pasu with the Special Dividends; and (ii) increased by any investment gains and decreased by any investment losses as required by the Corporation's senior credit facility.

2. Liquidation, Dissolution or Winding Up; Deemed Liquidation Event.

2.1. Preferential Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event:

2.1.1 The holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the sum of (A) Accruing Dividends that have accrued but have not been paid and (B) the greater of (i) the Series A Minimum Liquidation Amount (as defined below) and (ii) such amount per share as would have been payable had all shares of Series A Preferred Stock been converted into Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event.

2.1.2 The holders of shares of Series B Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to the greater of (i) the sum of (1) the Series B Original Issue Price plus (2) the Series B Accruing Dividends that have accrued thereon (taking into account the Series B Accruing Dividend Calculation Method) and (ii) such amount per share as would have been payable had all shares of Series B Preferred Stock been converted into

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Common Stock pursuant to Section 4 immediately prior to such liquidation, dissolution, winding up or Deemed Liquidation Event.

2.1.3 Notwithstanding Section 2.1.2 above or anything else set forth herein to the contrary, in the event the Corporation enters into a binding, definitive agreement (but which definitive agreement may include conditions to closing) ("**Definitive Agreement**") for a Deemed Liquidation Event with a bona fide, non-affiliated third party (subject to the qualifications set forth below) (a "**Qualifying Deemed Liquidation Event**") within six (6) months after the Series B Original Issue Date (the "**Expiration Date**"), the maximum amount of any and all proceeds to be received by the holders of Series B Preferred Stock upon the consummation of such Qualified Deemed Liquidation Event shall be limited to One Hundred and Twenty Five Percent (125%) of the Series B Original Issue Price, or an aggregate of \$125,000,000 (the "**Maximum Amount**"); provided that:

(i) if the Corporation enters into a non-binding letter of intent, term sheet or similar writing (collectively, "**LOI**") for a Deemed Liquidation Event prior to the Expiration Date, and the Corporation enters into a Definitive Agreement for such Deemed Liquidation Event by the later of: (1) thirty (30) days after the effective date of such LOI; or (2) the Expiration Date, then the Deemed Liquidation Event shall be deemed to be a Qualifying Deemed Liquidation Event and the maximum amount of any and all proceeds to be received by the holder of Series B Preferred Stock upon the consummation of such Qualifying Deemed Liquidation Event shall be limited to the Maximum Amount; and

(ii) the closing of the Qualifying Deemed Liquidation Event shall take place no later than six (6) months (the "**Closing Deadline**") after execution of the Definitive Agreement; provided, however, that if the Qualifying Deemed Liquidation Event has not been consummated by the Closing Deadline date because the Corporation has not received the approval or consent from any governmental or quasi-governmental entities and all other conditions to closing have been satisfied or waived (other than conditions to be satisfied at closing), then the Closing Deadline shall deemed to be twelve (12) months after execution of the Definitive Agreement (the "**Extended Closing Deadline**"); and, provided, further, that if the Corporation has received the approval or consent from at least ninety percent (90%) of all required governmental or quasi-governmental entities required for the consummation of the Qualified Deemed Liquidation Event at the Extended Closing Deadline date and all other conditions to closing have been satisfied or waived (other than conditions to be satisfied at closing), then the Extended Closing Deadline shall deemed to be eighteen (18) months after execution of the Definitive Agreement. For the avoidance of doubt, a Deemed Liquidation Event may qualify as a Qualifying Deemed Liquidation Event if any equity holder(s) of the Company participates in the Qualifying Deemed Liquidation Event by "rolling" equity or providing a cash investment as part of the Qualifying Deemed Liquidation Event, so long as such equity holder is not the Corporation's majority equity holder after the consummation of the Qualifying Deemed Liquidation Event.

Notwithstanding the foregoing, in the event the conditions to exercisability set forth in Section 14 of the Warrant issued by the Corporation to the holders of Series B Preferred Stock have been satisfied in full, the limitations set forth in this Section 2.1.3 limiting the amount of proceeds the holders of Series B Preferred Stock are entitled to receive in connection with a Qualifying Deemed Liquidation Event to the Maximum Amount shall not be applicable and the holders of Series B

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Preferred Stock shall have the right to receive proceeds in connection with such Qualifying Deemed Liquidation Event in excess of the Maximum Amount.

2.1.4 If upon any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of shares of Series A Preferred Stock and the Series B Preferred Stock the full amount to which they shall be entitled under this Subsection 2.1, the holders of shares of Series A Preferred Stock and Series B Preferred Stock shall share ratably in any distribution of the assets available for distribution in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2. Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of shares of Common Stock, pro rata based on the number of shares held by each such holder.

2.3. A "**Deemed Liquidation Event**" shall mean the sale, conveyance, or other disposition of all or substantially all of the Corporation's assets or a merger or consolidation with any other corporation or entity (other than a wholly-owned Subsidiary of the Corporation) or any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is transferred, sold, conveyed or otherwise disposed to any Person, entity or group; provided, that the issuance and sale of equity securities by the Corporation in connection with a financing transaction shall not be deemed to be a Deemed Liquidation Event.

2.4. The "**Series A Minimum Liquidation Amount**" shall mean, with respect to each share of Series A Preferred Stock, an amount equal to two times (2x) the Series A Original Issue Price; provided, that, the Series A Minimum Liquidation Amount shall be reduced by any and all prior cash distributions and cash dividends (including distributions and dividends accrued and paid at the time of or together with amounts paid in connection with any such liquidation, dissolution or winding up of the Corporation or Deemed Liquidation Event) made in respect of the Series A Preferred Stock (including on the Common Stock into which the Series A Preferred Stock may be converted, on an as converted basis) other than the Accruing Dividend (until such amount would equal zero).

3. Voting.

3.1. General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting), each holder of outstanding shares of Preferred Stock shall be entitled to cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Except as required by law or as expressly provided by the other provisions of these Articles of Incorporation, holders

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of Preferred Stock shall vote together with the holders of Common Stock as a single class. The holders of the Preferred Stock shall be entitled to notice of any stockholders' meeting in accordance with the Corporation's bylaws.

3.2. Election of Directors. The Corporation's directors shall be elected as follows: (i) for so long as 2,336,448 shares of Series A Preferred Stock (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof) are held by the holders of record who held such shares on August 30, 2012, the holders of record of the shares of Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "Series A Director"); (ii) for so long as 1,384,000 shares of Series B Preferred Stock (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof) are held by the holders of record who held such shares on March 21, 2017, the holders of record of the shares of Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "Series B Director") and (iii) the holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect the remaining directors of the Corporation. Any director elected as provided in this Section 3.2 may be removed without cause by, and only by, the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director.

3.3. Approval by Preferred Stock.

3.3.1. Series A Preferred Stock. Neither the Corporation nor any of its Subsidiaries shall, without first obtaining the approval of the holders of at least a majority of the votes attributable to the then-outstanding shares of the Series A Preferred Stock voting as a separate class (with each share of Series A Preferred Stock entitling the holder thereof to cast the number of votes which could be cast in such vote by a holder of the number of shares of Common Stock of the Corporation into which such share of Series A Preferred Stock is convertible on the record date for such vote):

(i) amend, alter or repeal (including, without limitation, by merger, consolidation, other business combination, operation of law or otherwise) any provision of the Articles of Incorporation (as amended) or Bylaws of the Corporation or the organizational documents of any Subsidiary in a manner that adversely affects the powers, preferences or rights of the Series A Preferred Stock; or

(ii) alter or change (including, without limitation, by merger, consolidation, other business combination, operation of law or otherwise) the rights, privileges, preferences or powers of the Series A Preferred Stock, by merger, consolidation or otherwise.

3.3.2. Series B Preferred Stock. Neither the Corporation nor any of its Subsidiaries shall, without first obtaining the approval of the holders of at least a majority of

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the votes attributable to the then-outstanding shares of the Series B Preferred Stock voting as a separate class (with each share of Series B Preferred Stock entitling the holder thereof to cast the number of votes which could be cast in such vote by a holder of the number of shares of Common Stock of the Corporation into which such share of Series B Preferred Stock is convertible on the record date for such vote):

(i) amend, alter or repeal (including, without limitation, by merger, consolidation, other business combination, operation of law or otherwise) any provision of the Articles of Incorporation (as amended) or Bylaws of the Corporation or the organizational documents of any Subsidiary in a manner that adversely affects the powers, preferences or rights of the Series B Preferred Stock; or

(ii) alter or change (including, without limitation, by merger, consolidation, other business combination, operation of law or otherwise) the rights, privileges, preferences or powers of the Series B Preferred Stock, by merger, consolidation or otherwise.

4. Optional Conversion.

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

4.1. Right to Convert.

4.1.1. Series A Conversion Ratio. Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series A Original Issue Price by the Series A Conversion Price (as defined below) in effect at the time of conversion. In addition, in connection with any optional conversion, the Corporation shall pay to the holders of Series A Preferred Stock, in cash, all Accruing Dividends that have accrued but have not been paid at the time of such conversion. The "**Series A Conversion Price**" shall initially be equal to \$26.75. Such initial Series A Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.2. Series B Conversion Ratio. Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Series B Original Issue Price by the Series B Conversion Price (as defined below) in effect at the time of conversion. The "**Series B Conversion Price**" shall initially be equal to \$36.127. Such initial Series B Conversion Price, and the rate at which shares of Series B Preferred Stock may be converted into shares of Common Stock, shall be subject to adjustment as provided below.

4.1.3. Termination of Conversion Rights. In the event of a notice of redemption of any shares of Preferred Stock pursuant to Section 6, the Conversion Rights of the shares designated for redemption shall terminate at the close of business on the business day

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immediately preceding (i) the date fixed for such redemption, in the case of a Series A Redemption and/or a Series B Redemption, or (ii) receipt of the Corporation Redemption Notice, in the case of a Corporation Redemption; provided, however, the Conversion Rights of the shares designated for redemption shall resume on the Redemption Failure Date in the event of a Redemption Failure. In the event of a liquidation, dissolution or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights shall terminate at the close of business on the business day immediately preceding the date fixed for the payment of any such amounts distributable on such event to the holders of shares of Preferred Stock designated for redemption.

4.2. Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock as determined in good faith by the Board of Directors of the Corporation. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the aggregate number of shares of Common Stock issuable upon such conversion.

4.3. Mechanics of Conversion.

4.3.1. Notice of Conversion. In order for a holder of Preferred Stock to voluntarily convert shares of Preferred Stock into shares of Common Stock, such holder shall surrender the certificate or certificates for such shares of Preferred Stock (or, if such registered holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Preferred Stock represented by such certificate or certificates and, if applicable, any event on which such conversion is contingent. Such notice shall state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. If reasonably required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or his, her or its attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such certificates (or lost certificate affidavit and agreement) and notice shall be the time of conversion (the "**Conversion Time**"), and the shares of Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such date. The Corporation shall, as soon as practicable after the Conversion Time, (i) issue and deliver to such holder of Preferred Stock, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable upon such conversion in accordance with the provisions hereof and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, (ii) pay in cash such amount as provided in Subsection 4.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and (iii) in the case of Series A Preferred Stock, pay in cash all accrued but

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unpaid Accruing Dividends on the shares of Series A Preferred Stock converted, and in the case of any Preferred Stock, pay in cash any declared but unpaid dividends thereon in accordance with Section 4.3.3.

4.3.2. Reservation of Shares. The Corporation shall at all times when the Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Preferred Stock, such number of its duly authorized shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation shall take such corporate action as may 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.

4.3.3. Effect of Conversion. All shares of Preferred Stock which shall have been surrendered for conversion as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Subsection 4.2 and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of any series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock and of the applicable series of Preferred Stock accordingly.

4.3.4. No Further Adjustment. Upon any such conversion and payment of the Accruing Dividends pursuant to Section 4.3.1(iii), no adjustment to the Series A Conversion Price shall be made for any declared but unpaid dividends on the Series A Preferred Stock surrendered for conversion or on the Common Stock delivered upon conversion.

4.3.5. Taxes. The Corporation shall pay any and all issue and other similar taxes that may be payable in respect of any issuance or delivery of shares of Common Stock upon conversion of shares of Preferred Stock pursuant to this Section 4. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Preferred Stock so converted were registered, and no such issuance or delivery shall be made unless and until the Person or entity requesting such issuance has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid.

H23000378867 3**4.4. Adjustments to Series A Conversion Price and Series B Conversion Price for Diluting Issues.**

4.4.1. Special Definitions. For purposes of this Article III, the following definitions shall apply:

(a) "Option" shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities;

(b) "Convertible Securities" shall mean any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock (which shall be deemed to include equity participation units, other similar phantom equity or common stock equivalents and stock appreciation rights), but excluding Options;

(c) "Series A Original Issue Date" shall mean the date on which the first share of Series A Preferred Stock was issued.

(d) "Series B Original Issue Date" shall mean the date on which the first share of Series B Preferred Stock was issued.

(e) "Original Issue Date" shall mean the Series A Original Issue Date and/or the Series B Original Issue Date, as applicable.

(f) "Original Issue Price" shall mean the Series A Original Issue Price and/or the Series B Original Issue Price, as applicable.

(g) "Conversion Price" means the Series A Conversion Price and/or the Series B Conversion Price, as applicable.

(h) "Series Majority" shall mean the Series A Majority and/or the Series B Majority, as applicable.

(i) "Additional Shares of Common Stock" shall mean all shares of Common Stock issued (or, pursuant to Subsection 4.4.3 below, deemed to be issued) by the Corporation after the applicable Original Issue Date, other than (1) the following shares of Common Stock and (2) shares of Common Stock deemed issued pursuant to the following Options and Convertible Securities; provided, however, that any such securities issued pursuant to subclauses (iv), (v) and (vi) below shall be Exempted Securities solely to the extent that such securities (A) do not exceed 3,000,000 shares of Common Stock in the aggregate (on an as converted basis) and (B) are issued at a price per share of Common Stock (on an as converted basis) equal to or greater than 95% of the applicable Original Issue Price (securities subject to clauses (1) and (2), collectively, "Exempted Securities");

(i) shares of Common Stock, Options or Convertible Securities issued as a dividend or distribution on Preferred Stock;