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MEMORANDUM

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
00 OCT 23 PM 12:59

TO: Florida Secretary of State  
DATE: October 20, 2000  
FROM: Melanie Mulcahy  
RE: Application to Amend Application for Authorization

Please file the enclosed application and provide us with a Certified Copy and a Certificate of Status by return mail. Check # 2004 in the amount of \$52.50 is enclosed to cover all filing and certificate fees. Our contact information if any questions arise is as follows:

Xspedius Corp.  
One Lakeshore Drive, Suite 1900  
Lake Charles, LA 70629  
Attn: Legal Department

Fax # (337) 310-3479  
1 (800) 673-2200 (ext. 3183)

Thank you for your assistance.

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N/C

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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)**

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DIVISION OF CORPORATIONS  
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1. Xspedia Corp.  
Name of corporation as it appears on the records of the Department of State.
2. Delaware 3. May 30, 2000  
Incorporated under laws of 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? October 5, 2000

5. Xspedius 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.

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

n/a  
New Duration

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

n/a  
New Jurisdiction

  
Signature

October 20, 2000  
Date

Rob Sauser  
Typed or printed name

President / COO  
Title

*Office of the Secretary of State*

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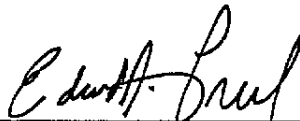
I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OF "XSPEDIUS CORP." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, CHANGING ITS NAME FROM "XSPEDIA CORP." TO "XSPEDIUS CORP.", FILED THE FIFTH DAY OF OCTOBER, A.D. 2000, AT 4:30 O'CLOCK P.M.

CERTIFICATE OF AGREEMENT OF MERGER, FILED THE FIFTH DAY OF OCTOBER, A.D. 2000, AT 4:31 O'CLOCK P.M.



  
Edward J. Freel, Secretary of State

3207550 8100X

AUTHENTICATION: 0731717

001515961

DATE: 10-12-00

**CERTIFICATE OF  
AMENDMENT AND RESTATEMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF**

**XSPEDIA CORP.  
(HEREINAFTER XSPEDIUS CORP.)**

Pursuant to Sections 242 and 245 of the  
General Corporation Law  
of the State of Delaware

1. Xspedia Corp. (hereinafter known as Xspedius Corp. and referred to in this Certificate of Amendment and Restatement as the "Company") was initially incorporated on April 5, 2000 as LEC Unwired, Inc., filed an Amendment to its Certificate of Incorporation on May 5, 2000 changing its name to Xspedia Corp., and fully amended and restated its Certificate of Incorporation on June 21, 2000.

2. The Certificate of Incorporation of the Company is hereby deleted in its entirety and replaced by the following:

**ARTICLE I**

The name of the corporation is Xspedius Corp. (the "Corporation").

**ARTICLE II**

The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

**ARTICLE III**

The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the state of Delaware.

#### ARTICLE IV

This Corporation is authorized to issue one class of stock to be designated "Common Stock". The total number of shares which the Corporation is authorized to issue is Ten Thousand (10,000) shares of Common Stock, \$.01 par value per share.

#### ARTICLE V

The Corporation is to have perpetual existence.

#### ARTICLE VI

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter or repeal the Bylaws of the Corporation.

#### ARTICLE VII

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation. Election of directors need not be by written ballot unless the Bylaws or the Corporation so provide.

#### ARTICLE VIII

The Corporation shall indemnify its officers and directors to the fullest extent permitted by Section 145 of the General Corporation Law of Delaware, as amended from time to time. The personal liability of a director of the Corporation to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director shall be limited to the fullest extent permitted by the General Corporation Law of the State of Delaware, as it now exists or may hereafter be amended. Any repeal or modification of this Article by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

#### ARTICLE IX

The Corporation expressly elects not to be governed by Section 203 of the General

Corporation Law of the State of Delaware.

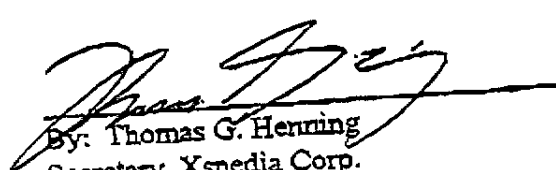
#### ARTICLE X

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner now or hereafter prescribed herein any by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this reservation.

3. All 10,650,888 shares of issued and outstanding Series A Preferred Stock are hereby reclassified and converted into that same number of shares of Common Stock of the Company.

4. All 18,770,570 shares of issued and outstanding Common Stock of the Company (after giving effect to the reclassification of the Series A Preferred Stock) are hereby reclassified so that every 18770.570 shares of currently outstanding Common Stock becomes 1 share of Common Stock. Upon the effectiveness of this Certificate of Amendment and Restatement, the Company shall have 1,000 shares of Common Stock outstanding.

5. A resolution authorizing this Amendment and Restatement, including the reclassification of shares described herein, has been duly adopted by the Board of Directors of the Company and approved by its sole shareholder, who owned all of the issued and outstanding Common and Preferred Stock prior to the approval, and will own all 1000 shares of Common Stock outstanding upon the effectiveness of this Certificate of Amendment and Restatement.



By: Thomas G. Henning

Secretary, Xspedia Corp.

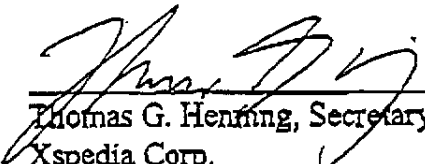
(hereinafter, Xspedius Corp.)

**ACKNOWLEDGMENT AS TO  
XSPEDIA CORP.**

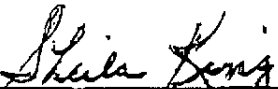
STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, personally came and appeared Thomas G. Henning, who, being duly sworn, declared and acknowledged before me that he is the Secretary of Xspedia Corp. (hereinafter, Xspedius Corp.) and that in such capacity he was duly authorized to and did execute the foregoing Certificate on behalf of such corporation, for the purposes therein expressed and as his and such corporation's free act and deed.

  
\_\_\_\_\_  
Thomas G. Henning, Secretary  
Xspedia Corp.  
(formerly Xspedius Corp.)

Sworn to and subscribed before me  
this 4<sup>th</sup> day of OCTOBER, 2000.

  
\_\_\_\_\_  
Notary Public

**AGREEMENT OF MERGER  
OF  
LEC UNWIRED, LLC  
INTO  
XSPEDIUS CORP.**

This Agreement of Merger ("Agreement") is dated this 4<sup>th</sup> day of October, 2000, between LEC Unwired, LLC, a Louisiana limited liability company ("LEC"), and Xspedius Corp., a Delaware corporation ("Xspedius").

WHEREAS, the sole member of LEC and the Board of Directors of Xspedius (collectively, the "Merging Entities") deem it advisable that LEC be merged into Xspedius (the "Merger"), as provided in this Agreement; and

WHEREAS, the sole member of LEC and the Board of Directors of Xspedius wish to enter into this Agreement and submit it to the shareholder of Xspedius for approval in the manner required by law and, subject to such approval and to such other approvals as may be required, to effect the Merger, all in accordance with the provisions of this Agreement;

NOW THEREFORE, in consideration of the mutual benefits to be derived from this Agreement and the Merger, the parties hereto agree as follows:

**1. THE MERGER**

In accordance with the applicable provisions of law, LEC shall be and is hereby merged into Xspedius, the separate existence of LEC shall cease, and Xspedius shall be the entity surviving the Merger.

**2. EFFECTIVENESS OF THE MERGER**

2.1 Effective Time of the Merger. The Merger shall become effective as of October 5, 2000 (the "Effective Time").

2.2 Effect of the Merger. At the Effective Time, (i) the separate existence of LEC shall cease, and LEC shall be merged into Xspedius; (ii) Xspedius shall continue to possess all of the rights, privileges and franchises possessed by it and shall, at the Effective Time, become vested with and possess all rights, privileges and franchises possessed by LEC; (iii)



Xspedius shall be responsible for all of the liabilities and obligations of LEC in the same manner as if Xspedius had itself incurred such liabilities or obligations, and the Merger shall not affect or impair the rights of the creditors or of any persons dealing with the Merging Entities; (iv) the Merger will not of itself cause a change, alteration or amendment to the Certificate of Incorporation of Xspedius, and (v) the Merger shall, from and after the Effective Time, have all the effects provided by applicable law.

2.3 Additional Actions. If, at any time after the Effective Time, Xspedius shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable (a) to vest, perfect or confirm, of record or otherwise, in Xspedius, title to or the possession of any property or right of LEC acquired or to be acquired by reason of, or as a result of, the Merger, or (b) otherwise to carry out the purposes of this Agreement, LEC and its proper members and managers shall be deemed to have granted to Xspedius an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and possession of such property or rights in Xspedius and otherwise to carry out the purposes of this Agreement; and the proper officers and directors of Xspedius are fully authorized in the name of LEC to take any and all such action.

### 3. METHOD OF CARRYING MERGER INTO EFFECT

This Agreement shall be submitted to the shareholder of Xspedius for its approval. If such approval is given, then the fact of such approval shall be certified hereon by the Secretary of Xspedius. This Agreement, so approved and certified, shall, as soon as is practicable, be signed and acknowledged by the President of Xspedius and the sole member and manager of LEC. The signature on this agreement by the sole member and manager of LEC shall constitute the approval of the Merger by the sole member. As soon as may be practicable thereafter, this Agreement, so certified, signed and acknowledged, shall be delivered to the Secretaries of State of Louisiana and Delaware for filing in the manner required by law and shall be effective at the Effective Time; and thereafter, as soon as practicable, a copy of the Certificate of Merger issued by the Secretaries of State of Louisiana and Delaware, and certified by each to be a true copy, shall be filed (in any cases where such a filing is required by applicable law) for record in the Office of the Recorder of Mortgages of the parishes in which the Merging Entities have their respective registered offices and in the Office of the Recorder of Conveyances of each parish, if any, in which LEC has immovable property.

### 4. CONVERSION OF SHARES

4.1 Cancellation of LEC Membership Interests. At the Effective Time, each outstanding membership interest in LEC, all of which is currently owned by Xspedius, shall

be cancelled.

4.2 Xspedius Common Stock. The sole shareholder of Xspedius will continue to own 100% of the issued and outstanding shares of Xspedius after the Effective Date.

## 5. MISCELLANEOUS

5.1 Termination. Prior to the Effective Time, this Agreement may be terminated, and the Merger abandoned, by either party.

5.2 Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and do not constitute a part hereof for any other purpose.

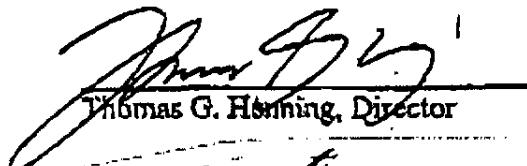
5.3 Modifications, Amendments and Waivers. At any time prior to the Effective Time (notwithstanding any member or shareholder approval that may have already been given), the parties hereto may modify, amend or supplement any term or provision of this Agreement.

5.4 Governing Law. This Agreement shall be governed by the laws of the State of Louisiana (regardless of the laws that might be applicable under principles of conflicts of law) as to all matters, including, but not limited to, matters of validity, construction, effect and performance.

IN WITNESS WHEREOF, this Agreement has been executed by the sole member of LEC and the Board of Directors of Xspedius as of the day and year first above written.

**FOR THE BOARD OF DIRECTORS OF  
XSPEDIUS CORP.**

  
William L. Henning, Jr., Director

  
Thomas G. Henning, Director

  
John R. Garrett, Director

**FOR LEC UNWIRED, LLC**

  
\_\_\_\_\_  
Lec Unwired, LLC

By: Xspedius Corp., Sole Member and Manager

By: Robert Sauser  
President

**CERTIFICATE OF SECRETARY OF  
XSPEDIUS CORP.**

I hereby certify that I am the duly elected Secretary of Xspedius Corp, a Delaware corporation, presently serving in such capacity and that the foregoing Agreement was, in the manner required by law, duly approved, without alteration or amendment, by the required vote of the shareholders of Xspedius Corp.

Certificate dated OCTOBER 4, 2000.

  
\_\_\_\_\_  
Thomas G. Henning, Secretary

**EXECUTION BY ENTITIES**

Considering the approval of this Agreement by the shareholder of Xspedius Corp and the member of LEC Unwired, LLC, as certified above, this Agreement is executed by such entities, Xspedius Corp. acting through its President and LEC Unwired, LLC, acting through the President of its sole member, this 4<sup>th</sup> day of October, 2000.


**XSPEDIUS CORP.**

By:   
Robert Sauser, President

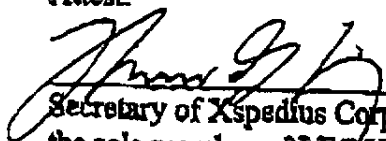
Attest:

  
Secretary

**LEC UNWIRED, LLC**

By:   
By: Xspedius Corp., Sole Member  
By: Robert Sauser  
President

Attest:

  
Secretary of Xspedius Corp.,  
the sole member of LEC Unwired, LLC

**ACKNOWLEDGMENT AS TO  
XSPEDIUS CORP.**

STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, personally came and appeared Robert Sauser who, being duly sworn, declared and acknowledged before me that he is the President of Xspedius Corp and that in such capacity he was duly authorized to and did execute the foregoing Agreement on behalf of both Xspedius Corp. and LEC Unwired, LLC, for the purposes therein expressed and as his and such corporation's free act and deed.

  
Robert Sauser, President

Sworn to and subscribed before me  
this 4th day of October, 2000.

  
Notary Public