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MERGER OR SHARE EXCHANGE

LIFESTYLE FAMILY FITNESS II, INC.

Certificate of Status	0
Certified Copy	0
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Merger
5-04-06

850-205-0381 5/4/2006 4:28 PAGE 001/001 Florida Dept of State

May 4, 2006

FLORIDA DEPARTMENT OF STATE
Division of Corporations

PLEASE GIVE ORIGINAL SUBMISSION DATE AS FILE DATE.

LIFESTYLE FAMILY FITNESS, INC.
140 FOUNTAIN PARKWAY
SUITE 410
ST PETERSBURG, FL 33716

SUBJECT: LIFESTYLE FAMILY FITNESS, INC.
REF: F04000004208

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

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FAX Aud. #: H06000125561
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ARTICLES OF MERGER
MERGING
LIFESTYLE FAMILY FITNESS II, INC., A FLORIDA CORPORATION
INTO
LIFESTYLE FAMILY FITNESS, INC.,
A DELAWARE CORPORATION

Pursuant to the provisions of the Florida Business Corporation Act, Sections 607.1105 and 607.1107(1)(c) of the Florida Statutes, the undersigned corporations adopt the following Articles of Merger:

1. Lifestyle Family Fitness II, Inc., a Florida corporation ("LFF FL"), is hereby merged into Lifestyle Family Fitness, Inc., a Delaware corporation ("LFF DE"), with LFF DE being the surviving corporation (the "Merger").

2. A copy of the Plan of Merger (the "Plan") between LFF FL and LFF DE is attached hereto as Exhibit A and incorporated fully herein by this reference.

3. The Merger shall become effective on the date these Articles of Merger are filed with the Florida Department of State.

4. The Plan was approved by the Board of Directors of LFF FL on April 28, 2006 and by the Board of Directors of LFF DE on April 28, 2006. The Plan of Merger was adopted by the shareholders of LFF FL on April 28, 2006, and by the shareholders of LFF DE on April 28, 2006.

IN WITNESS WHEREOF, the constituent corporations have executed these Articles of Merger this 28th day of April, 2006.

LIFESTYLE FAMILY FITNESS II, INC.

By: _____
Geoffrey A. Dwer, President

FILED
06 MAY -4 PM 1:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

LIFESTYLE FAMILY FITNESS, INC.

By: _____
Todd Bright, President

FILED
06 MAY -4 P 1:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

H06000125561 Exhibit A

PLAN OF MERGER

This PLAN OF MERGER (this "Plan") is hereby adopted by LIFESTYLE FAMILY FITNESS, INC., a Delaware corporation ("LFF DE"), and LIFESTYLE FAMILY FITNESS II, INC., a Florida corporation ("LFF FL"), for the purpose of merging LFF FL with and into LFF DE pursuant to Section 607.1101 of the Florida Business Corporation Act (the "FBCA") and Section 252 of the Delaware General Corporation Law (the "DGCL"). LFF DE is sometimes referred to herein as the "Surviving Corporation".

1. Merger. At the Effective Time (as defined herein), LFF FL will be merged with and into LFF DE pursuant to and in accordance with the provisions of Section 607.1101 of the FBCA and Section 252 of the DGCL (the "Merger").

2. Treatment of Shares.

2.1 LFF FL. At the Effective Time, each share of capital stock of LFF FL issued and outstanding immediately prior to the Merger will, by virtue of the Merger and without any action on behalf of any party adopting this Plan, be converted into the right to receive (a) 4.77566831431977 shares of common stock of LFF DE and (b) 0.491378895274892 shares of Series A Preferred Stock of LFF DE. After the Effective Time, no shares of capital stock of LFF FL will be deemed outstanding or will have any rights other than as set forth in this Section 2.1. The shares of Series A Preferred Stock of LFF DE received by the shareholders of LFF FL pursuant to this Section 2.1 shall have the same rights and privileges as the shares of Series A Preferred Stock of LFF DE owned by LFF FL that are cancelled pursuant to Section 2.2 below.

2.2 LFF DE. After the Effective Time, each share of LFF DE's currently issued and outstanding capital stock owned by LFF FL will, by virtue of the Merger and without any action on behalf of any party adopting this Plan, no longer be outstanding, and will be available for issuance to the shareholders of LFF FL pursuant to this Plan, and each other share of LFF DE's currently issued and outstanding capital stock will remain outstanding and shall represent shares of issued and outstanding capital stock of the Surviving Corporation.

3. Certificate of Incorporation. The Certificate of Incorporation of the Surviving Corporation shall be as attached hereto.

4. Bylaws. The Bylaws of LFF DE, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation, until amended.

5. Effect of Agreement. The parties adopting this Plan shall be bound by the terms and conditions of that certain Agreement of Merger dated as of April 28, 2006. In the event of any inconsistency between the Agreement and this Plan, the provisions of this Plan shall control.

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6. Effective Time. The Merger shall be effective upon the filing of the Articles of Merger and the Certificate of Merger, whichever is filed last, in accordance with the provisions of Section 607.1105 of the FBCA and Section 251 of the DGCL.

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

LIFESTYLE FAMILY FITNESS, INC.

Pursuant to Sections 242 and 245 of the General Corporation Law of Delaware (the "**DGCL**"), the undersigned submits this Amended and Restated Certificate of Incorporation for Lifestyle Family Fitness, Inc. (the "**Corporation**"). The name of the Corporation is Lifestyle Family Fitness, Inc., and the Corporation's date of Incorporation is July 19, 2004.

ARTICLE I - Name

The Corporation's name is **LIFESTYLE FAMILY FITNESS, INC.**

ARTICLE II - Registered Office and Agent

The address of the registered office of the Corporation in the State of Delaware is, 2711 Centerville Road, Suite 400 in the City of Wilmington, County of New Castle, and the name of the registered agent is the Corporation Service Company.

ARTICLE III - Purpose

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV – Capital Securities

A. Generally

1. **Authorized Capitalization.**

(a) The total number of shares of capital stock authorized to be issued by the Corporation shall be:

(i) 30,000,000 shares of common stock, par value $0.001 per share (the "**Common Stock**"); and

(ii) 15,000,000 shares of preferred stock, par value $0.001 per share (the "**Preferred Stock**"), of which 7,213,240 shares shall be designated as Series A

Preferred Stock ("**Series A Preferred Stock**") and 5,633,379 shares shall be designated as Series B Preferred Stock ("**Series B Preferred Stock**").

2. **Designations.**

(a) **Preferred Stock.** The Board of Directors of the Corporation may issue the Preferred Stock from time to time as shares of one or more series. The descriptions of shares of Series A Preferred Stock and Series B Preferred Stock are as set forth in Article IV(B) below. The description of shares of each other series of Preferred Stock, including, without limitation, any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption, if any, shall be as set forth in resolutions adopted by the Board of Directors, and a Certificate of Designation shall be filed with the Delaware Secretary of State as required by law to be filed with respect to authorization of such Preferred Stock, prior to the issuance of any shares of such series.

Subject to the limitations and provisions set forth in this Certificate of Incorporation and any approval rights set forth in other agreements of the Corporation, the Board of Directors is authorized, without stockholder action, at any time, by adopting resolutions providing for the issuance of, or providing for a change in the number of, shares of any particular series of Preferred Stock and to the extent required by law, by filing a certificate of amendment, (i) to increase or decrease the number of shares included in each series of Preferred Stock or (ii) to establish in any one or more respects the designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications, or terms and conditions of redemption, if any, relating to the shares of each series. The foregoing authority does not constitute authority of the Board of Directors to increase the number of authorized shares of Series A Preferred Stock or Series B Preferred Stock or to modify the terms of the Series A Preferred Stock or Series B Preferred Stock or any other series of Preferred Stock without approval of the holders of a majority of the shares of the applicable series.

(b) **Common Stock.** Each share of Common Stock shall be entitled to one vote on all matters submitted to a vote of stockholders, except matters required to be voted on exclusively by holders of Preferred Stock or of any series of Preferred Stock. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the combined number of the Corporation's issued and outstanding Common Stock and Preferred Stock that votes together with the Common Stock generally, irrespective of the provision of Section 242(b)(2) of the DGCL. If the Corporation liquidates, dissolves, or winds up its affairs (voluntarily or involuntarily) (a "**Liquidation Event**"), the assets and funds of this Corporation available for distribution to stockholders, and remaining after the payment to holders of Preferred Stock of the amounts to which they are entitled, shall be divided and paid to the holders of the Common Stock according to their respective shares.

B. Series A and Series B Preferred Stock

1. **Dividends.**

(a) **Rate.** The holders of record of shares of Series A Preferred Stock will be entitled to receive, when and as declared by the Board of Directors of the Corporation, pursuant to Section 1(c) below and out of any assets of the Corporation legally available therefor, dividends (the "**Series A Dividends**") at the rate of eight and one-quarter percent (8.25%) per annum on the sum of $.9542 per share, plus accrued and unpaid Series A Dividends. The holders of record of shares of Series B Preferred Stock will be entitled to receive, when and as declared by the Board of Directors of the Corporation, pursuant to Section 1(c) below and out of any assets of the Corporation legally available therefor, dividends (the "**Series B Dividends**") at the rate of eight and one-quarter percent (8.25%) per annum on the sum of $1.6864 per share, plus accrued and unpaid Series B Dividends. The base amounts on which the Corporation pays Series A Dividends and Series B Dividends (initially $.9542 per share and $1.6864 per share, respectively) will be adjusted as follows: If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of any series into a greater number of shares, the amount in effect immediately before the subdivision will be proportionately reduced, and conversely, if the outstanding shares of any series are combined into a smaller number of shares, the amount in effect immediately before the combination will be proportionately increased. The Series A Dividends and Series B Dividends are, collectively, the "**Preferred Dividends.**"

(b) **Accrual.** The Series A Dividends and Series B Dividends will accrue daily and be fully cumulative, whether or not declared by the Board of Directors, and whether or not there are profits, surplus, or other legally available funds to pay them.

(c) **Payment.** The Corporation shall pay all accrued and unpaid Preferred Dividends on the first day of each month to each holder of Series A Preferred Stock and Series B Preferred Stock and upon any Liquidation Event (each, a "**Dividend Payment Date**"). If a Preferred Dividend cannot be paid in full on any Dividend Payment Date, the Corporation shall pay dividends to the maximum possible extent to the holders of the Series A Preferred Stock and Series B Preferred Stock ratably based on the respective amounts of Preferred Dividends otherwise payable to them.

(d) **Priority.** Notwithstanding anything in this Section 1 to the contrary, so long as any shares of the Series A Preferred Stock or Series B Preferred Stock shall remain outstanding and any Preferred Dividends remain accrued but unpaid, the Corporation shall not pay any dividends with respect to or redeem any shares of the Corporation's Common Stock or any other class and series of its Preferred Stock, whether already existing or later created.

2. **Ranking; Preference on Liquidation.**

(a) **Ranking**. The Series A Preferred Stock ranks senior to every other class or series of the Corporation's Common Stock and each other class and series of its Preferred Stock, whether already existing or later created, other than the Series B Preferred Stock (collectively, the "**Series A Junior Securities**"). The Series B Preferred Stock ranks senior to every other class or series of the Corporation's Common Stock and each other class and series of its Preferred Stock, whether already existing or later created, including the Series A Preferred Stock (collectively, the "**Series B Junior Securities**").

(b) **Payment on Liquidation**. Upon a Liquidation Event, after paying or providing for payment of its debts and other liabilities, and after payment of all Preferred Dividends in accordance with Section 1(c) above, the Corporation shall pay to the holders of Series B Preferred Stock, before paying any amounts to the holders of Series B Junior Securities, a cash amount for each share of Series B Preferred Stock equal to the Series B Liquidation Price, as defined below (the "**Series B Liquidation Preference**"). If its assets to be distributed among the holders of Series B Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Series B Liquidation Preference for each share of Series B Preferred Stock, the Corporation shall distribute its assets among the holders of Series B Preferred Stock ratably based on the respective amounts otherwise payable to them.

Upon completion of the full distribution of the Series B Liquidation Preference required by the previous paragraph, the Corporation shall pay to the holders of Series A Preferred Stock, before paying any amount to the holders of Series A Junior Securities, a cash amount for each share of Series A Preferred Stock equal to the Series A Liquidation Price, as defined below (the "**Series A Liquidation Preference**"). If its assets to be distributed among the holders of Series A Preferred Stock on a Liquidation Event are insufficient to permit the Corporation to pay the full Series A Liquidation Preference for each share of Series A Preferred Stock, the Corporation shall distribute its assets among the holders of Series A Preferred Stock ratably based on the respective amounts otherwise payable to them.

Upon completion of the distribution of the Series A Liquidation Preference and Series B Liquidation Preference required by the two previous paragraphs, any additional assets of the Corporation available for distribution to stockholders shall be distributed among the holders of Common Stock, pro rata based on the number of shares of Common Stock held by each.

(c) **Deemed Liquidation Event**. The following will, at the option of the holders of a majority of the outstanding shares of Series B Preferred Stock, be deemed to be a Liquidation Event and trigger a Dividend Payment Date and the Corporation's obligation to pay the Series A Liquidation Preference and the Series B Liquidation Preference: (1) a merger or consolidation of the Corporation with or into one or more corporations or other entities that results in the exchange of 50% or more of the outstanding shares of any class of capital stock of the Corporation outstanding immediately before the merger or consolidation for securities or other consideration issued or paid by the other corporation; (2) the sale, transfer, or license of all

or substantially all of the assets of the Corporation; or (3) the issuance or sale, in any transaction or series of related transactions, to any person or entity or affiliated group of persons or entities, that results in the transfer of fifty percent (50%) or more of the outstanding voting power of the Corporation. The Corporation shall notify the holders of Series A Preferred Stock and Series B Preferred Stock in writing (the "**Liquidation Event Notice**") not later than 20 days before the stockholders' meeting is called to approve the Liquidation Event, if any, or within 20 days before closing of the transaction, whichever is earlier, and shall also notify the holders in writing of the final approval of the transaction. The first of these notices shall describe the material terms and conditions of the pending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The option of the holders of Series B Preferred Stock to have the foregoing events treated as Liquidation Events may be exercised by written notice given to the Corporation by holders of a majority of the outstanding shares of Series B Preferred Stock within 60 days of the notifying holders' receipt of the Liquidation Event Notice. If the requirements of this subsection (c) are not complied with in connection with the Liquidation Event, the Corporation shall either:

(i) cause the closing of the deemed Liquidation Event to be postponed until the requirements of this subsection (c) have been complied with; or

(ii) cancel the transaction that constituted a deemed Liquidation Event, in which event the rights, preferences and privileges of the holders of the Series A Preferred Stock and Series B Preferred Stock shall revert to and be the same as the rights, preferences and privileges existing immediately before the date of the first notice referred to in subsection (c).

(d) **Series A and Series B Liquidation Prices.** The "**Series A Liquidation Price**" will be the amount of $.9542 per share, and the "**Series B Liquidation Price**" will be the amount of $1.6864 per share. The Series A Liquidation Price and Series B Liquidation Price shall be adjusted pursuant to subsection (e) below.

(e) **Payment and Adjustment of the Liquidation Price.** The Corporation shall pay the Series A Liquidation Preference and Series B Liquidation Preference to the holders of Series A Preferred Stock and Series B Preferred Stock, respectively, within 15 days after (i) the consummation of a Liquidation Event or (ii) the Corporation's receipt of notice from those holders of their option to have an event treated as a Liquidation Event under Section 2(c). The Corporation shall pay interest to each holder of Series A Preferred Stock and Series B Preferred Stock at an annual rate equal to the lesser of (i) eighteen percent (18%) or (ii) the rate of interest from time to time quoted under "Money Rates" in the Wall Street Journal plus eight percent (8 %), on all or such part of the principal sum as shall be outstanding from time to time on any part of the Series A Liquidation Preference or Series B Liquidation Preference, as applicable, not paid when due. If the Corporation at any time subdivides (by any stock split, stock dividend or otherwise) its outstanding shares of Series A Preferred Stock or Series B Preferred Stock into a greater number of shares, the Series A Liquidation Price and Series B Liquidation Price in effect immediately before the subdivision (initially $.9542 and $1.6864, respectively) will be proportionately reduced, and conversely, if the outstanding shares of Series A Preferred Stock or

Series B Preferred Stock are combined into a smaller number of shares, the Series A Liquidation Price and Series B Liquidation Price, respectively, in effect immediately before the combination will be proportionately increased.

(f) **Valuation of Consideration**. In the event of a Liquidation Event, actual or deemed, if the consideration received by the Corporation is other than cash or securities, its value will be deemed its fair market value, and the Board of Directors of the Corporation shall promptly engage an independent appraiser acceptable to the holders of a majority of each of the Series A Prefererd Stock and the Series B Preferred Stock to determine the value of the assets to be distributed to the holders of the Series A Preferred Stock, Series B Preferred Stock, Common Stock, and any other series of equity securities. The Corporation shall, upon receipt of such appraiser's valuation, give prompt written notice to each holder of Series A Preferred Stock, Series B Preferred Stock, and Common Stock of the appraiser's valuation. Any securities shall be valued as follows:

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

(A) If traded on a securities exchange or The Nasdaq Stock Market, the value shall be deemed to be the average of the closing prices of the securities on such exchange or Nasdaq over the thirty (30) day period ending three (3) business days prior to the closing of the transaction;

(B) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) business days prior to the closing of the transaction; or

(C) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Corporation and the holders of a majority of the outstanding shares of each of the Series A Preferred Stock and the Series B Preferred Stock, provided that if those parties are unable to reach agreement, then by independent appraisal by an investment banker. The investment banker shall be hired and paid by the Corporation and acceptable to the holders of a majority of the outstanding shares of each of the Series A Preferred Stock and the Series B Preferred Stock.

(ii) 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 above in Section 2(f)(i) above to reflect the approximate fair market value thereof, as mutually determined by the Corporation and the holders of a majority of the outstanding shares of the Series A Preferred Stock and Series B Preferred Stock, provided that if the Corporation and the holders of a majority of the outstanding shares of each of the Series A Preferred Stock and Series B Preferred Stock are unable to reach agreement, then by independent appraisal by an investment banker in the same manner as described in Section 2(f)(i)(C) above.

3. **Conversion.** Each share of Series A Preferred Stock and Series B Preferred Stock is convertible by its holder into Common Stock as follows:

(a) **Conversion Option.** Subject to the terms and conditions of this Section 3, the holder of any share of Series A Preferred Stock or Series B Preferred Stock (a "**Convertible Preferred Stock Holder**") may, at the Convertible Preferred Stock Holder's option, at any time and from time to time, convert any or all of its shares of Series A Preferred Stock or Series B Preferred Stock, as applicable ("**Convertible Preferred Stock**"), into the number of fully paid and non-assessable shares of Common Stock determined pursuant to Section 3(c) below. The holders of Series A Preferred Stock and Series B Preferred Stock may continue to exercise this conversion option notwithstanding their receipt of notice of a Liquidation Event.

(b) **Mandatory Conversion.** All shares of Convertible Preferred Stock then outstanding will automatically be converted into the number of fully paid and non-assessable shares of Common Stock set forth in Section 3(c) below as of the date that the Securities and Exchange Commission declares effective a registration of the Common Stock under the Securities Act of 1933, as amended, and the Corporation completes a bona fide offering of its Common Stock to the general public (a "**Qualified Public Offering**") (1) that is underwritten on a firm commitment basis by one or more nationally recognized underwriters, (2) from which the Corporation receives net cash proceeds of at least $30,000,000, (3) that provides for an initial offering price to the public per share of Common Stock of at least five (5) times the Series B Liquidation Price specified in Section 1(d) in effect on the effective date, and (4) that gives the Corporation a market capitalization of at least $100,000,000.

(c) **Conversion Price.** Each share of Series A Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing $.9542 by the Series A Conversion Price in effect on the Conversion Date (as defined below). The "**Series A Conversion Price**" at which shares of Common Stock will be issuable on conversion of shares of the Series A Preferred Stock initially will be $.9542 and, thus, initially each such share of Series A Preferred Stock is convertible into one share of Common Stock. Based on the initial Series A Conversion Price, all of the 7,213,240 outstanding shares of Series A Preferred Stock are initially convertible into 7,213,240 shares of Common Stock.

Each share of Series B Preferred Stock will be convertible into such number of shares of Common Stock as is determined by dividing $1.6864 by the Series B Conversion Price in effect on the Conversion Date (as defined below). The "**Series B Conversion Price**" at which shares of Common Stock will be issuable on conversion of shares of the Series B Preferred Stock initially will be $1.6864 and, thus, initially each such share of Series B Preferred Stock is convertible into one share of Common Stock. Based on the initial Series B Conversion Price, all of the 2,371,949 outstanding shares of Series B Preferred Stock are initially convertible into 2,371,949 shares of Common Stock.

The Series A Conversion Price and Series B Conversion Price will be subject to adjustment as set forth in Section 3(e). If a Convertible Preferred Stock Holder converts into Common Stock more than one share of Convertible Preferred Stock, the number of shares of

Common Stock issuable on conversion will be computed on the basis of the aggregate number of shares of Convertible Preferred Stock so converted.

(d) **Mechanics of Conversion.** A Convertible Preferred Stock Holder may exercise the conversion right specified in Section 3(a) as to all or any part of its Convertible Preferred Stock by surrendering to the Corporation (or to another person designated by the Board of Directors) the certificates evidencing the shares it elects to convert, endorsed and assigned to the Corporation in blank, and accompanied by written notice confirming the holder's exercise of its conversion option as to all or a specified portion of the shares evidenced by the certificates. Each Convertible Preferred Stock Holder will promptly surrender its stock certificates to the Corporation on a mandatory conversion pursuant to Section 3(b). Conversion of shares of Convertible Preferred Stock to Common Stock will be effective (a) when the holder delivers to the Corporation notice of its election to convert and certificates evidencing the converted shares (for a conversion pursuant to Section 3(a)) or (b) on the date of the Qualified Public Offering (for a conversion pursuant to Section 3(b)) (the foregoing respective dates are the "**Conversion Date**"). As promptly as practicable after the Conversion Date and in any event within five days after surrender of the certificate or certificates representing converted shares of Convertible Preferred Stock, the Corporation will issue and deliver, or cause to be issued or delivered, at its expense to a converting holder (or to another person designated in writing by the holder consistently with the provisions of the Corporation's Stockholder Agreement), a certificate evidencing the number of whole shares of Common Stock to which such holder is entitled. On conversion of only a portion of the number of shares evidenced by a certificate surrendered for conversion, the Corporation will issue and deliver at its expense to the converting holder (or to another person designated in writing by the holder, consistently with the provisions of the Stockholder Agreement) a new certificate for the number of shares of Convertible Preferred Stock evidencing the unconverted portion of the surrendered certificate. At the close of business on the Conversion Date, (1) the converted shares of Convertible Preferred Stock will cease to be outstanding, (2) the holders of the converted shares will cease to have any further rights with respect to those shares, except to receive Common Stock and cash (as specified below) with respect to the converted shares, and (3) the holders of the converted shares will be deemed to have become the holder of the Common Stock for all purposes.

(e) **Adjustments of Conversion Prices On Issuance of Common Stock.** If the Corporation issues or sells (or pursuant to subparagraphs (e)(1) through (e)(8), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Series A Conversion Price in effect immediately before the issuance or sale, the Series A Conversion Price will be reduced to the price, calculated to the nearest one-hundredth of a cent, determined by dividing (1) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock) multiplied by the Series A Conversion Price, and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series A Preferred Stock, based on the conversion ratio in effect immediately before the issuance).

If the Corporation issues or sells (or pursuant to subparagraphs (e)(1) through (e)(8), is deemed to issue or sell) any shares of Common Stock for consideration per share less than the Series B Conversion Price in effect immediately before the issuance or sale, the Series B Conversion Price will be reduced to the price, calculated to the nearest one-hundredth of a cent, determined by dividing (1) an amount equal to the sum of (a) the number of shares of Common Stock outstanding immediately before such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series B Preferred Stock) multiplied by the Series B Conversion Price, and (b) the consideration, if any, received by the Corporation upon such issuance or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issuance or sale (including as outstanding all shares of Common Stock issuable on conversion of outstanding Series B Preferred Stock, based on the conversion ratio in effect immediately before the issuance).

For purposes of this paragraph (e), the following subparagraphs (e)(1) to (e)(8) also apply to conversion of the Convertible Preferred Stock to Common Stock. For purposes of subparagraphs (e)(1) to (e)(8), the term "**Conversion Price**" shall refer to the Series A Conversion Price or the Series B Conversion Price, whichever is subject to adjustment pursuant to this subparagraph (e).

(e)(1) **Issuance of Rights or Options**. In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) warrants or other rights to subscribe for or purchase, or options to purchase, Common Stock or stock or securities convertible into or exchangeable for Common Stock (the warrants, rights or options are "**Options**" and the convertible or exchangeable stock or securities are "**Convertible Securities**"), whether or not the Options or Convertible Securities are immediately exercisable, and the price per share (determined, for a formula price, based on current circumstances or, if dependent on future circumstances, facts that would result in the lowest price per share) for which Common Stock is issuable on the Options' exercise or on the conversion or exchange of the Convertible Securities (determined by dividing (1) the total amount, if any, payable to the Corporation as consideration for the Option grant, plus the aggregate amount of additional consideration payable to the Corporation on the Option exercise, plus, in the case of any Options that relate to Convertible Securities, any consideration payable on the issue or sale of the Convertible Securities and on their conversion or exchange, by (2) the total number of shares of Common Stock issuable upon the Options' exercise or on the conversion or exchange of Convertible Securities issuable on the Options' exercise) is less than the Conversion Price in effect immediately before the Option grant, the total number of shares of Common Stock issuable on the Options' exercise or on conversion or exchange of any Convertible Securities issuable on the Options' exercise will be deemed issued for such price per share on the date of the Options' grant and thereafter will be deemed outstanding. Except as otherwise provided in subparagraph (e)(3), the Conversion Price will not be further adjusted when the Common Stock is actually issued on exercise of the Options or conversion or exchange of Convertible Securities.

(c)(2) **Issuance of Convertible Securities.** In case the Corporation in any manner issues (whether directly or by assumption in a merger or otherwise) or sells Convertible Securities, whether or not the rights to exchange or convert the Convertible Securities are immediately exercisable, and the price per share (determined, in the case of a formula price, on the basis of current circumstances or, if dependent on future circumstances, the facts would result in the lowest price per share) for which Common Stock is issuable upon the conversion or exchange (determined by dividing (1) the total amount payable to the Corporation as consideration for the issue or sale of the Convertible Securities, plus the aggregate amount of additional consideration, if any, payable to the Corporation on their conversion or exchange, by (2) the total number of shares of Common Stock issuable on conversion or exchange of all such Convertible Securities) is less than the Conversion Price in effect immediately before the issue or sale, then the total number of shares of Common Stock issuable upon conversion or exchange of the Convertible Securities will be deemed to be issued for such price per share as of the date of the issue or sale of the Convertible Securities and thereafter will be deemed outstanding, provided that (a) except as provided in subparagraph (e)(3), no further adjustment of the Conversion Price will be made otherwise when the Common Stock is actually issued on conversion or exchange of the Convertible Securities and (b) the Conversion Price will not be further adjusted pursuant to this subsection for the issue or sale of Convertible Securities on the exercise of Options to purchase the Convertible Securities if the Conversion Price has been or will be adjusted for the transaction pursuant to other provisions of this paragraph (e).

(c)(3) **Change in Option Price or Conversion Rate.** Upon the happening of any of the following events, namely, if the purchase price provided for in any Option referenced in subparagraph (e)(1), the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities referred to in subparagraph (e)(1) or (c)(2), or the rate at which Convertible Securities referred to in subparagraph (e)(1) or (c)(2) are convertible into or exchangeable for Common Stock changes at any time (including, but not limited to, changes under or by reason of provisions designed to protect against dilution), the Conversion Price in effect at the time of such event will be readjusted to the Conversion Price that would have been effective at that time had the Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration, or conversion rate, as the case may be, when initially granted, issued or sold; and on the expiration of the Options or the termination of a right to convert or exchange any Convertible Securities, the Conversion Price then in effect will be increased to the Conversion Price that would have been in effect at the time of the expiration or termination had the Options or Convertible Securities never been issued.

(c)(4) **Stock Dividends and Subdivisions.** In case the Corporation declares a dividend or makes any other distribution on stock of the Corporation payable in Common Stock (except for dividends or distributions payable in shares of Common Stock upon the Preferred Stock), Options, or Convertible Securities, the Common Stock, Options, or Convertible Securities, as the case may be, issuable in payment of the dividend or distribution will be deemed to have been issued or sold (as of the record date) without

brief statement of the facts requiring the adjustment, the computation of the adjustment, and when the adjustment will become effective.

(f) **Certain Issues of Common Stock Excepted.** Notwithstanding the foregoing provisions, the Corporation will not be required to adjust the Series A Conversion Price or Series B Conversion Price in the case of the issuance of (1) additional shares of Common Stock that have been issued or are available for issuance pursuant to options to the Corporation's officers, directors, employees or agents, in each case approved by the Corporation's Compensation Committee and (2) shares of Common Stock issuable on conversion of the Series A Preferred Stock and Series B Preferred Stock.

(g) **Reservation of Stock Issuable Upon Conversion.** The Corporation will reserve out of its authorized but unissued Common Stock, solely for the purposes of effecting the conversion of the Convertible Preferred Stock, the number of shares of Common Stock issuable on conversion of all outstanding Convertible Preferred Stock. The holders of Common Stock do not have any preemptive right to purchase these reserved shares (or any other authorized but unissued shares or treasury shares). If at any time the number of authorized but unissued shares of Common Stock are not sufficient to effect the conversion of all then outstanding shares of the Convertible Preferred Stock, in addition to such other remedies as are available to the holder to the Convertible Preferred Stock, the Corporation shall take the corporate action that in the opinion of its counsel is necessary to increase its authorized but unissued shares of Common Stock to the number of shares that are sufficient for those purposes, including engaging in its best efforts to secure the requisite stockholder approval of any needed amendment to the Certificate of Incorporation (as amended hereby).

(h) **Payment of Taxes.** The Corporation will pay any and all taxes, documentary or otherwise, that are payable with respect to the issuance or delivery of Common Stock on conversion of the Convertible Preferred Stock. The Corporation will not, however, be required to pay tax with respect to a transfer involved in the issue or transfer and delivery of shares of Common Stock in a name other than the record name of the converted Convertible Preferred Stock, and no issuance or delivery will be made unless and until the person requesting such issue pays to the Corporation the amount of any such tax or establishes to the Corporation's satisfaction payment of the tax or that no tax is due. In no event shall the Corporation pay or reimburse a registered holder for any income tax or *ad valorem* tax payable by the holder because of the issuance of Common Stock on conversion of Convertible Preferred Stock.

(i) **No Reissuance of Preferred Stock.** The Corporation will cancel shares of Convertible Preferred Stock converted pursuant to this Section 3.

(j) **Adjustments for Merger, Consolidation, etc.** In the case of any classification, reclassification, or other reorganization of the Corporation's capital stock, or in the case of the merger or consolidation of the Corporation with or into another corporation, or the conveyance to another corporation of all or any major portion of the Corporation's assets, then, as part of the classification, reclassification, merger, consolidation, or conveyance, adequate provision will be made for each holder of Convertible Preferred Stock, on exercise of its

conversion privilege, to receive on the same basis and conditions set forth in this Section 3 with respect to the Common Stock, the stock, securities, or other property that the holder would have been entitled to receive on such classification, reclassification, merger, consolidation, or conveyance, if the holder had exercised the conversion privilege immediately before the classification, reclassification, merger, consolidation, or conveyance, and in any such case appropriate provision will be made with respect to the rights and interests of the holder to the end that the provisions of this Section 3 (including without limitation, provision for adjustment of the Series A Conversion Price or Series B Conversion Price, as applicable) will be applicable to the shares of stock, securities, or other property deliverable on the exercise of the conversion privilege; and, as a condition of any consolidation, merger, or conveyance, any corporation that succeeds to the Corporation by reason of the merger, consolidation or conveyance will assume the obligation to deliver, on exercise of the conversion privilege, the shares of stock, securities or other considerations that the holders of the Convertible Preferred Stock are entitled to receive pursuant to this Section 3.

5. **Voting.** In addition to its voting rights specially provided for in this Certificate of Incorporation or granted by applicable law, each holder of Series A Preferred Stock and Series B Preferred Stock will be entitled to voting rights with respect to all matters on which holders of Common Stock have the right to vote. Each holder of Series A Preferred Stock or Series B Preferred Stock may vote that number of votes equal to the number of whole shares of Common Stock into which the holder's shares of Series A Preferred Stock or Series B Preferred Stock, respectively, would be convertible pursuant to the provisions of Section 3 as of the record date for the determination of stockholders entitled to vote on the matter. Each holder's votes will be counted together with all other shares of capital stock having general voting powers and not separately as a class, except as otherwise provided in this Certificate of Incorporation or by applicable law. In cases in which the holders of shares of Series A Preferred Stock or Series B Preferred Stock are entitled to approve a matter or vote separately as a class, each holder will be entitled to one vote for each of its shares and the vote of a majority of the outstanding shares of Series A Preferred Stock or Series B Preferred Stock, as applicable, will constitute the action of that class.

6. **Authorization of Additional Classes of Shares.** So long as shares of Series A Preferred Stock remain outstanding, the Corporation will not, without the vote or prior written consent of holders of a majority in interest of the then outstanding shares of Series A Preferred Stock authorize the creation of a new class of shares having dividend rights or liquidation preferences equal or superior to the Series A Preferred Stock, or improve the dividend rights or liquidation preferences, if any, of the Series A Junior Securities such that they become equal or superior to the Series A Preferred Stock. So long as shares of Series B Preferred Stock remain outstanding, the Corporation will not, without the vote or prior written consent of holders of a majority in interest of the then outstanding shares of Series B Preferred Stock authorize the creation of a new class of shares having dividend rights or liquidation preferences equal or superior to the Series B Preferred Stock, or improve the dividend rights or liquidation preferences of the Series B Junior Securities such that they become equal or superior to the Series B Preferred Stock.

7. **Amendment of Certificate of Incorporation.** So long as any shares of the Series A Preferred Stock are outstanding, the Corporation will not, without the affirmative vote of holders of a majority in interest of the Series A Preferred Stock, voting together as a separate class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Certificate of Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series A Preferred Stock or changes any of the rights, preferences, or interests of the Series A Preferred Stock. So long as any shares of the Series B Preferred Stock are outstanding, the Corporation will not, without the affirmative vote of holders of a majority in interest of the Series B Preferred Stock, voting together as a separate class, in addition to any other vote, consent, or approval required by law or otherwise, amend the Corporation's Certificate of Incorporation or Bylaws in any manner which adversely affects the relative rights and preferences of the Series B Preferred Stock or changes any of the rights, preferences, or interests of the Series B Preferred Stock.

ARTICLE V – Directors

1. **Number of Members of Board of Directors.** The Board of Directors of the Corporation shall consist of either seven (7) or nine (9) members as follows, and whether there are seven (7) or nine (9) members shall be decided by the majority of the then serving Board of Directors:

(a) Two (2) directors (the "**Common Directors**"), nominated and elected by the holders of the Common Stock (excluding any Common Stock issued on conversion of Preferred Stock);

(b) Two (2) directors (the "**Series A Preferred Directors**") shall be nominated and elected by Quantum Capital Partners III, Ltd., so long as it owns any Series A Preferred Stock. If Quantum Capital Partners III, Ltd. no longer owns any Series A Preferred Stock, the holders of the Series A Preferred Stock, voting as a separate class, shall elect one director and the holders of Series B Preferred Stock, voting as a separate class, shall elect the other director;

(c) One (1) director (the "**Series B Preferred Director**") shall be nominated and elected by (i) Ballast Point Ventures, L.P. so long as it owns any Series B Preferred Stock, or (ii) if Ballast Point Ventures, L.P. no longer owns any Series B Preferred Stock, the holders of the Series B Preferred Stock, voting as a separate class;

(d) One (1) director (the "Management Director") nominated and elected by the majority of the Board of Directors, who shall be the Chief Executive Officer of the Corporation, or if the Chief Executive Officer is serving as a Director then the President of the Corporation; and

(e) One (1) (if there are 7 directors) or three (3) (if there are 9 directors) director(s) shall be "Disinterested Director(s)" (as defined below) nominated and elected by the majority of the then serving Board of Directors.

If no Series A Preferred Stock remains outstanding, the holders of Series B Preferred Stock shall nominate and elect the Series A Directors (who will be redesignated Series B Directors). If no Series B Preferred Stock remains outstanding, the holders of Series A Preferred Stock shall nominate and elect the Series B Director (who will be redesignated Series A Directors). The term "Disinterested Director" means a director who does not derive any direct or indirect personal benefit from or otherwise have a personal interest in any transaction with the Corporation, including without limitation, any sole proprietor, partner, joint venturer, beneficiary, member, director, officer, employee, independent contractor, consultant, representative, and/or agent of the Corporation, and including acting personally or by or through any friend, relative, trustee, intermediary, agent, representative, or other person, or in any manner or capacity.

In the event of a deadlock among the Board of Directors in selecting a person for nomination as a Disinterested Director all of the Corporation's Stockholders (Preferred and Common) shall nominate and elect the Disinterested Directors, voting as a single class on an as-converted to common basis.

If a group is entitled to, but does not, nominate and elect a director, that position on the Board of Directors will be left vacant until properly nominated and elected as provided above.

Upon completion of a "Qualified Public Offering" (as defined above) or a "Sale" of the Company (as defined below) all the provisions of this Article V, Section 1 shall terminate, and the Corporation shall have a Board of Directors consisting of that number of Directors serving at the time of the completion of such "Qualified Public Offering" or "Sale" to be elected by the Stockholders of the Corporation voting as a single class on an as converted to common basis, and pending such election the Directors then in office shall continue in office. A "Sale" means the sale of the Company or substantially all the Company's assets or capital stock, whether by merger, asset sale, or otherwise.

2. **Removal of Directors; Election of Successors.** Any group entitled to nominate and elect a director may remove a director (or directors) that it designated pursuant to Section 1, with or without cause, by notice to the Corporation. If a director is so removed, resigns, is unable to serve, or for any other reason a vacancy in a Board position occurs, the group that elected that director may replace the director. In each case, if a group or class is taking any such action, the applicable electing group or class may act by written notice to the Corporation, signed by holders of a majority of the outstanding shares of that group or class, or by action at a meeting called for that purpose.

3. **Compensation and Audit Committees; Executive Committee.** The Corporation establishes a Compensation Committee and an Audit Committee of the Board of Directors. The Audit Committee and Compensation Committee will each consist of no more than three (3) directors and will be composed of the Series B Preferred Director, the Disinterested Director selected under Section 1(d) or 1(e) above, designated by the holders of Common Stock (excluding any Common Stock issued on conversion of Preferred Stock), and one Series A Preferred Director. The Corporation shall not pay management salaries and other "compensation" (as that term is defined in Section 4.4 of the Investor Rights Agreement among

the Corporation and the holders of the Series B Preferred Stock dated on or about the same date as this Certificate of Incorporation) to directors, officers, or other persons among the three most highly compensated employees of the Corporation, except as approved by the Compensation Committee of the Board of Directors. Any action taken by the Compensation Committee requires the unanimous consent of all members of the Committee. If the Compensation Committee does not agree on an employee's bonus compensation for any year, the applicable bonus criteria will be those of the prior year, except that the current year's financial plan will be adjusted to reflect the approved plan of the Board of Directors. The Board of Directors may create an Executive Committee only with the approval of holders of a majority of each of the Common Stock (excluding any Common Stock issued on conversion of Preferred Stock), Series A Preferred Stock, and the Series B Preferred Stock.

4. **Expense Reimbursement; Insurance.** The Corporation shall reimburse the directors for all reasonable out-of-pocket expenses (including travel and lodging) incurred by a director in connection with serving in the position, including but not limited to the cost of attending meetings of the Board of Directors. Any compensation paid to any director for board service (other than expense reimbursement as described above) shall be paid equally to all directors, except for the Series A Directors for so long as Quantum Capital is being paid under a Consulting Agreement with the Corporation. The Corporation shall also reimburse any holder of Series B Preferred Stock exercising its observation rights under the Investor Rights Agreement for all reasonable, out-of-pocket expenses (including travel and lodging) incurred by the holder in connection with attending meeting of the Board of Directors.

ARTICLE VI – Limitation of Liability; Indemnification.

To the full extent that the Delaware General Corporation Law, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of the liability of directors, a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. To the full extent permitted by the provisions of Section 145 of the Delaware General Corporation Law, as it exists on the date hereof or may hereafter be amended, the Corporation shall indemnify each person which shall have the power to indemnify under said section from and against any and all of the expenses, liabilities or other matters referred to in and covered by said section. The indemnification provided for herein shall not be deemed exclusive of any other rights to which each such indemnified person may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such indemnified person's official capacity and as to action in another capacity while serving as a director, officer, employee or agent of the Corporation, and shall continue as to a person who has ceased to be a director, officer, employee or agent of the Corporation, and shall inure to the benefit of the heirs, executors and administrators of such person. Any amendment to or repeal of this Article VI shall not adversely affect any right or protection of a director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

ARTICLE VII – Perpetual Existence

This corporation shall have perpetual existence.

ARTICLE VIII – By-Laws

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 By-Laws of the Corporation.

ARTICLE IX – Amendments

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

ARTICLE X - Miscellaneous

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware:

A. The Board of Directors of the Corporation is expressly authorized to adopt, amend or repeal the By-laws of the Corporation.

B. Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

C. The books of the Corporation may be kept at such place within or without the State of Delaware as the By-Laws of the Corporation may provide or as may be designated from time to time by the Board of Directors of the Corporation.

D. Meetings of the stockholders may be held within or without the State of Delaware, as the By-Laws may provide.

ARTICLE XI – Compromises or Arrangements with Creditors and Stockholders

Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of the DGCL or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of Section 279 of the DGCL, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholder of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence

of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

ARTICLE XII - Action by Stockholders without a Meeting

Any action that could be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a written consent setting forth the action taken is 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.

ARTICLE XIII – Name and Address of Incorporator

The name and mailing address of the Incorporator is Jack Levine, 100 North Tampa Street, Suite 4100, Tampa, Florida 33602.

LIFESTYLE FAMILY FITNESS, INC.

By: _____
Name: Wayne O. Hancewicz
Title: Vice President

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