

To:

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2023-07-14 09:25:55 CST

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From: Alexis Gregor

7/10/23, 11:58 AM

F1000001906

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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((H23000241147 3)))



H230002411473ABCV

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Email Address: Legal@vixxo.com

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
VIXXO CORPORATION**

Certificate of Status	0
Certified Copy	0
Page Count	04
Estimated Charge	\$35.00

Electronic Filing Menu

Corporate Filing Menu

Help

Fax Audit # H23000241147 3

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)

F10000001906

(Document number of corporation (if known))

1. Vixxo Corporation
 (Name of corporation as it appears on the records of the Department of State)
2. Maryland 3. 4/22/2010
 (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? _____
5. (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

Delaware

 (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.

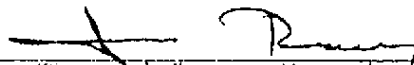
Signature of New Registered Agent, if changing

Fax Audit # H123000241147.3

9. If the amendment changes person, title or capacity in accordance with 607.1501 (4), indicate that change:

<u>Title/Capacity</u>	<u>Name</u>	<u>Address</u>	<u>Type of Action</u>
_____	_____	_____	<input type="checkbox"/> Add
_____	_____	_____	<input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Add
_____	_____	_____	<input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Add
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_____	_____	_____	<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)

James Reavey

(Typed or printed name of person signing)

President

(Title of person signing)

FILING FEE \$35.00

Fax Audit # H123000241147.3



July 10, 2023

FLORIDA DEPARTMENT OF STATE
Division of Corporations

VIXXO CORPORATION
939 ELKRIDGE LANDING ROAD
SUITE 300
LINTHICUM, MD 21090-2937

SUBJECT: VIXXO CORPORATION
REF: F10000001906

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.

A certificate or a document of similar import evidencing the amendment must be submitted with the application. The certificate should be authenticated as of a date 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 the records in the jurisdiction under the laws of which it is incorporated, formed, or organized. A translation of the certificate, under oath or affirmation of the translator, must be attached to a certificate which is not in English.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Tammi Cline
Regulatory Specialist II Supervisor

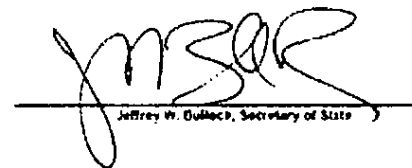
FAX Aud. #: H23000241147
Letter Number: 923A00015290

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THAT THE CERTIFICATE OF CONVERSION
OF A MARYLAND CORPORATION "VIXXO CORPORATION" TO A DELAWARE
CORPORATION "VIXXO CORPORATION", WAS FILED IN THIS OFFICE ON
THE TWENTY-EIGHTH DAY OF APRIL, A.D. 2023, AT 9:50 O'CLOCK A.M.



Jeffrey W. Bullock, Secretary of State

7431524 8317F
SR# 20232943410

Authentication: 203699975
Date: 07-07-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A MARYLAND CORPORATION UNDER THE NAME OF "VIXXO CORPORATION" TO A DELAWARE CORPORATION, FILED IN THIS OFFICE ON THE TWENTY-EIGHTH DAY OF APRIL, A.D. 2023, AT 9:50 O'CLOCK A.M.



7431524 8100V
SR# 20232893781

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBullock", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

Jeffrey W. Bullock, Secretary of State

Authentication: 203658094
Date: 06-29-23

State of Delaware
Secretary of State
Division of Corporations
Delivered: 09:50 AM 04/28/2023
FILED: 09:50 AM 04/28/2023
SR 20231688039 - File Number 7431524

**STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A NON-DELAWARE CORPORATION
TO A DELAWARE CORPORATION
PURSUANT TO SECTION 265 OF THE
DELAWARE GENERAL CORPORATION LAW**

This Certificate of Conversion (this “**Certificate**”) is submitted to convert Vixxo Corporation, a Maryland corporation (the “**Non-Delaware Corporation**”), into Vixxo Corporation, a Delaware corporation (the “**Domestic Corporation**”), pursuant to Section 265 of the Delaware General Corporation Law.

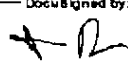
1. The jurisdiction where the Non-Delaware Corporation first formed is the State of Maryland.
2. The jurisdiction immediately prior to filing this Certificate is the State of Maryland.
3. The date the Non-Delaware Corporation first formed is January 11, 2001.
4. The name of the Non-Delaware Corporation immediately prior to filing this Certificate is Vixxo Corporation.
5. The name of the Domestic Corporation as set forth in the Certificate of Incorporation is Vixxo Corporation.
6. This Certificate shall be effective immediately upon filing.

[Signature Page Follows]

DocuSign Envelope ID: 8648549E-12CD-4443-8622-20FEEE61BFD5

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting Non-Delaware Corporation has executed this Certificate on the 28th day of April, 2023.

VIXXO CORPORATION

By:  DocuSigned by:
Name: James Reavey
Title: President

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF FORMATION OF "VIXXO CORPORATION".
FILED IN THIS OFFICE ON THE TWENTY-EIGHTH DAY OF APRIL, A.D.
2023, AT 9:50 O'CLOCK A.M.



7431524 8100
SR# 20232893781

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JB", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

Jeffrey W. Bullock, Secretary of State

Authentication: 203658095
Date: 06-29-23

CERTIFICATE OF INCORPORATION OF VIXXO CORPORATION

I, the undersigned, for the purpose of creating and organizing a corporation under the provisions of and subject to the requirements of the General Corporation Law of the State of Delaware (the “*DGCL*”), certify as follows:

1. The name of the corporation is Vixxo Corporation (the “*Corporation*”).
2. The address of the registered office of the Corporation in the State of Delaware is 108 West 13th St., Wilmington, county of New Castle, Delaware 19801. The name of the registered agent of the Corporation at such address is Business Filings Incorporated.
3. 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 DGCL.
4. The total number of shares of common stock which the Corporation is authorized to issue (a) 13,681,432 shares of common stock, par value \$0.001 per share (“*Common Stock*”), and (b) 5,472,572 shares of Series A Preferred Stock, par value \$0.001 per share (“*Series A Preferred Stock*”).
5. 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) Definitions. As used in this Certificate of Incorporation of the Corporation (as amended, restated or otherwise modified from time to time, this “*Certificate of Incorporation*”), the following terms shall have the respective meanings indicated:

(i) “*Available Funds and Assets*” means the funds and assets of the Corporation that may be legally distributed to the Corporation’s stockholders which, for the avoidance of doubt, are the net proceeds of a Liquidation Event after payment in full, or provision for payment in full, of all of the Corporation’s expenses, commissions, fees and obligations, including repayment of any indebtedness and satisfaction of any retained liabilities.

(ii) “*Board*” means the board of directors of the corporation.

(iii) “*Bylaws*” means the Bylaws of the Corporation, as amended, restated or otherwise modified from time to time in accordance with the Bylaws and this Certificate of Incorporation.

(iv) “*Common Proceeds*” means an amount equal to the Available Funds and Assets minus the aggregate amount distributable under Section 5(c)(i) (but in no event shall the Common Proceeds be less than \$0).

(v) “*Liquidation Event*” means any of the following: (i) the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the

Corporation; (ii) the commencement by the Corporation of a voluntary case under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law, the consent to the entry of an order for relief in an involuntary case under such law or to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property, the making of an assignment by the Corporation for the benefit of its creditors, the admission in writing by the Corporation of its inability to pay its debts generally as they become due, if a decree or order for relief in respect of the Corporation shall be entered by a court having jurisdiction in the premises in an involuntary case under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or similar law or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Corporation or of any substantial part of its property; (iii) any Merger Liquidation Event; or (iv) any Sale Liquidation Event.

(vi) ***“Merger Liquidation Event”*** means a merger or consolidation in which (i) the Corporation is a constituent party or (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except, in each case, any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (A) the surviving or resulting corporation or (B) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation.

(vii) ***“Sale Liquidation Event”*** means (i) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole or (ii) the sale or disposition (whether by merger, consolidation or otherwise, and whether in a single transaction or a series of related transactions) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except, in each case, where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

(viii) ***“Series A Liquidation Price”*** means \$14.62 per share of Series A Preferred Stock, *minus* the amount of any dividend or other distribution per share paid in cash on the Series A Preferred Stock prior to or in connection with the applicable Liquidation Event, 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.

(b) Dividends. Subject to the provisions of law and the rights and preferences contained herein including the following sentence, dividends, including dividends payable in one or more classes of the capital stock of the Corporation, may be paid on the Series A Preferred Stock or Common Stock at such time and in such amounts as the Board may deem advisable. Notwithstanding the foregoing sentence, the Corporation shall not pay or set aside any dividends on shares of any class or series of capital stock of the Corporation unless the holders of Series A Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Series A Preferred Stock in an amount at least equal to the amount payable on each share of Common Stock.

(c) Liquidation. Upon the occurrence of a Liquidation Event, the Available Funds and Assets shall be distributed to stockholders in the following manner:

(i) *Series A Liquidation Preference*. The holders of shares of Series A Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets, prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on the shares of Common Stock, an amount per share equal to the greater of (i) the Series A Liquidation Price and (ii) (A) the Available Funds and Assets, *divided by* (B) the number of outstanding shares of capital stock of the Corporation. If upon the occurrence of a Liquidation Event, the Available Funds and Assets shall be insufficient to permit the payment to holders of Series A Preferred Stock of their full preferential amounts described in this subsection, then all remaining Available Funds and Assets shall be distributed ratably among the holders of Series A Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive. The holders of the Series A Preferred Stock shall have no right to receive any further payment or distribution pursuant to their Series A Preferred Stock after the payment or distribution to such holders of their full preferential amount as described in this Section 5(c)(i).

(ii) *Remaining Assets*. If there are any Common Proceeds remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of the Series A Preferred Stock of their full preferential amounts described in Section 5(c)(i) above, then all such Common Proceeds shall be distributed ratably among the holders of Common Stock.

(iii) *Determination By Board*. The value of any Available Funds and Assets other than cash shall be determined in good faith by the Board.

(iv) *Contingent Consideration*. Notwithstanding anything to the contrary contained herein, if any proceeds of a Liquidation Event are distributable to the Corporation's stockholders only upon satisfaction of contingencies (the "***Additional Consideration***"), (i) the Available Funds and Assets distributable to stockholders of the Corporation pursuant to this Section 5 shall be determined without regard to the Additional Consideration and (ii) any Additional Consideration which becomes payable to the stockholders of the Corporation upon satisfaction of such contingencies shall be allocated among the holders of

capital stock of the Corporation in accordance with this Section 5 after taking into account the previous distribution of the Available Funds and Assets as part of the same transaction.

(d) Voting Rights.

(i) *General.* On all matters to come before the stockholders of the Corporation, the holders of Series A Preferred Stock and Common Stock shall be entitled to one vote for each share thereof held on the record date of the determination of the holders of the shares entitled to vote (the "**Record Date**"), or, if no Record Date is established, at the date such vote is taken or any written consent of stockholders is first solicited. Except as provided in Section 5(d)(ii) and as required by law, the holders of Series A Preferred Stock and the holders of Common Stock shall vote together as a class on any matter to come before the stockholders of the Corporation.

(ii) *Series A Protective Provisions.* The Corporation shall not, without the consent of the holders of at least 50% of the outstanding shares of Series A Preferred Stock, given in person or by proxy, either in writing or by vote at a meeting called for that purpose at which the holders of the Series A Preferred Stock shall vote as a separate class, by amendment to this Certificate of Incorporation or by merger or consolidation or in any other manner:

(A) alter or change the rights, preferences, privileges or powers of the Series A Preferred Stock adversely;

(B) increase the number of authorized shares of Series A Preferred Stock;

(C) create or authorize the creation of, or issue or obligate itself to issue shares of, or reclassify, any class or series of shares of capital stock on parity with or having preference over the Series A Preferred Stock;

(D) effect a subdivision, split, combination, reclassification, reorganization, or recapitalization of the outstanding capital stock of the Corporation which in any manner adversely affects the Series A Preferred Stock or the holders thereof in their capacity as such; or

(E) amend, repeal or modify this Certificate of Incorporation or the Bylaws.

(iii) *Notice of Record Date.* In the event:

(A) the Corporation shall take a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or

to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(B) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation; or

(C) any Liquidation Event,

then, and in each such case, the Corporation will send or cause to be sent to the holders of the Series A Preferred Stock a notice specifying, as the case may be, (i) the Record Date for such dividend, distribution or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification or Liquidation Event is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Series A Preferred Stock) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification or Liquidation Event, and the amount per share and character of such exchange applicable to the Series A Preferred Stock and the Common Stock. Such notice shall be sent at least 30 days prior to the record date or effective date for the event specified in such notice.

(c) Right to Convert. The holders of the Series A Preferred Stock shall have conversion rights as follows (the "**Conversion Rights**"):

(i) *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 one fully paid and non-assessable share of Common Stock.

(ii) *Termination of Conversion Rights*. In the event of any Liquidation Event, the Conversion Rights shall terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Series A Preferred Stock. However, the foregoing termination of Conversion Rights shall not affect the amount(s) otherwise paid or payable in accordance with Section 5(c) to holders of Series A Preferred Stock in connection with such Liquidation Event.

(iii) *Fractional Shares*. No fractional shares of Common Stock shall be issued upon conversion of the Series A Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the number of shares of Common Stock to be issued upon conversion of the Series A Preferred Stock shall be rounded to the nearest whole share.

(iv) *Notice of Conversion*. In order for a holder of Series A Preferred Stock to voluntarily convert shares of Series A Preferred Stock into shares of Common Stock, such holder shall (a) provide written notice to the Corporation's transfer agent at the office of the transfer agent for the Series A Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own

transfer agent) that such holder elects to convert all or any number of such holder's shares of Series A Preferred Stock and, if applicable, any event on which such conversion is contingent and (b), if such holder's shares are certificated, surrender the certificate or certificates for such shares of Series A 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 Series A Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent). Such notice shall state such holder's name or the names of the nominees in which such holder wishes the shares of Common Stock to be issued. If required by the Corporation, any certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form 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 notice and, if applicable, certificates (or lost certificate affidavit and agreement) shall be the time of conversion (the "*Conversion Time*"), and the shares of Common Stock issuable upon conversion of the specified shares 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 Series A 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 Series A Preferred Stock represented by the surrendered certificate that were not converted into Common Stock, and (ii) pay all declared but unpaid dividends on the shares of Series A Preferred Stock converted.

(v) *Reservation of Shares.* The Corporation shall at all times when the Series A 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 Series A 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 Series A 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 Series A 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 this Certificate of Incorporation.

(vi) *Effect of Conversion.* All shares of Series A 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 and to receive payment of any dividends declared but unpaid thereon. Any shares of Series A Preferred Stock so converted shall be retired and cancelled and may not be reissued as shares of such 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 Series A Preferred Stock accordingly.

(vii) *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 Series A Preferred Stock pursuant to this Section 5(e). 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 Series A 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.

(viii) *Adjustment for Merger or Reorganization, etc.* Subject to the provisions of Section 5(c), if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Series A Preferred Stock) is converted into or exchanged for securities, cash or other property, then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Series A Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of one share of Common Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section 5 with respect to the rights and interests thereafter of the holders of the Series A Preferred Stock, to the end that the provisions set forth in this Section 5 shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Series A Preferred Stock.

(f) *Waiver.* Except as otherwise set forth herein, any of the rights, powers, preferences and other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of Series A Preferred Stock by the affirmative written consent or vote of the holders of at least 50% of the shares of Series A Preferred Stock then outstanding.

6. The name and mailing address of the incorporator(s) of the Corporation are:

Name	Mailing Address
James Reavey	7000 E. Shea Blvd., Suite H1970 Scottsdale, AZ 85254

7. Unless and except to the extent that the Bylaws shall so require, the election of directors of the Corporation need not be by written ballot. The number of directors of the Corporation shall be as set by the Board and be at least five directors.

8. Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws 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 or in the Bylaws.

9. To the fullest extent permitted by law, a director or officer of the Corporation shall not be personally liable to the Corporation or to its stockholders for monetary damages for any breach of fiduciary duty as a director or officer. No amendment to, modification of, or repeal of this Section 9 shall apply to or have any effect on the liability or alleged liability of any director or officer of the Corporation for or with respect to any acts or omissions of such director or officer occurring prior to such amendment.

10. The Corporation shall indemnify, advance expenses, and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "**Covered Person**") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**"), by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except for claims for indemnification (following the final disposition of such Proceeding) or advancement of expenses not paid in full, the Corporation shall be required to indemnify a Covered Person in connection with a Proceeding (or part thereof) commenced by such Covered Person only if the commencement of such Proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board. Any amendment, repeal or modification of this Section 10 shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

11. In furtherance and not in limitation of the powers conferred by statute, the Board is expressly authorized to adopt, amend, restate, otherwise modify or repeal the Bylaws or adopt new Bylaws without any action on the part of the stockholders. Notwithstanding the foregoing, any Bylaw adopted or amended by the Board, and any powers thereby conferred, may be amended, altered, restated, otherwise modified or repealed by the stockholders.

12. The Corporation shall have the right, subject to any express provisions or restrictions contained in this Certificate of Incorporation or the Bylaws, from time to time, to amend, alter or repeal any provision of this Certificate of Incorporation in any manner now or hereafter provided by law, and all rights and powers of any kind conferred upon a director or stockholder of the Corporation by this Certificate of Incorporation or any amendment thereof are conferred subject to such right.

13. The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "Excluded Opportunity" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Common Stock or Series A Preferred Stock or any partner, member, director, stockholder, employee, affiliate or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, the persons referred to in clauses (i) and (ii) are "**Exempt Persons**"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, an Exempt Person expressly and solely in such Exempt Person's capacity as a director of the Corporation while such Exempt Person is performing services in such capacity. Any repeal or modification of this Section 13 will only be prospective and will not affect the rights under this Section 13 in effect at the time of the occurrence of any actions or omissions to act giving rise to liability. Notwithstanding anything to the contrary contained elsewhere in this Certificate, the affirmative written consent or vote of the holders of at least 50% of the shares of Series A Preferred Stock then outstanding will be required to amend or repeal, or to adopt any provisions inconsistent with this Section 13.

14. The Corporation shall not be governed by or subject to Section 203 of the DGCL.

15. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have subject matter jurisdiction, the federal district court for the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL, the Certificate of Incorporation, or the Bylaws (as either may be amended or restated) or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, or (iv) any action asserting a claim governed by the internal affairs doctrine. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 15. If any provision or provisions of this Section 15 shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Section 15 (including, without limitation, each portion of any sentence of this Section 15 containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of

such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

[SIGNATURE PAGE FOLLOWS]

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I, THE UNDERSIGNED, being the incorporator, for the purpose of forming a corporation pursuant to the DGCL, do make this Certificate of Incorporation, hereby acknowledging, declaring, and certifying that the foregoing Certificate of Incorporation is my act and deed and that the facts herein stated are true, and have accordingly hereunto set my hand this 28th day of April, 2023.

Incorporator

By:

DocuSigned by:



Name: James Reavey