

F14000000298

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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To: TRANS#860633
Division of Corporations
Fax Number : (850) 617-6380

From:
Account Name : CAPITOL SERVICES, INC.
Account Number : I20160000017
Phone : (800) 345-4647
Fax Number : (800) 432-3622

****Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.****

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**COR AMND/RESTATE/CORRECT OR O/D RESIGN
AZALEA HEALTH INNOVATIONS, INC.**

Certificate of Status	0
Certified Copy	1
Page Count	03
Estimated Charge	\$43.75

*****Please give the original submission date as the file date 8/18/16*****

FILED
21K AUG 18 PM 8:00
FLORIDA DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA



August 22, 2016

FLORIDA DEPARTMENT OF STATE
Division of Corporations

AZALEA HEALTH INNOVATIONS, INC.
5871 GLENERIDGE DR #300
STE #300
ATLANTA, GA 30328

SUBJECT: AZALEA HEALTH INNOVATIONS, INC.
REF: F14000000298

Please give the original submission date as file date 8/18/16

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.

The new jurisdiction of incorporation must be contained in the document.

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.

Cathy A Carrothers
Regulatory Specialist

FAX Aud. #: H16000205350
Letter Number: 316A00017685

RECEIVED
18 AUG 22 AM 7:36
REGULATORY

COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: AZALEA HEALTH INNOVATIONS, INC.

Name of Corporation

DOCUMENT NUMBER: F14000000298

The enclosed Amendment and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Regina M. Scott

Name of Contact Person

Morris, Manning & Martin, LLP

Firm/Company

3343 Peachtree Road, NE, Suite 1600

Address

Atlanta, GA 30328

City/State and Zip Code

pdenman@azaleahealth.com

Email address; (to be used for future annual report notification)

For further information concerning this matter, please call:

Kim Weidenbach

Name of Contact Person

at (800)

345-4647

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount:



\$35.00 Filing Fee



\$43.75 Filing Fee &
Certificate of Status



\$43.75 Filing Fee &
Certified Copy
(Additional copy is
enclosed)



\$52.50 Filing Fee,
Certificate of Status &
Certified Copy
(Additional copy is
enclosed)

Mailing Address:

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

Street Address:

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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)

F14000000298

(Document number of corporation (if known))

1. AZALEA HEALTH INNOVATIONS, INC.

(Name of corporation as it appears on the records of the Department of State)

2. Georgia

(Incorporated under laws of)

3. July 8, 2016

(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. 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)

Baha Zeidan

(Typed or printed name of person signing)

Chief Executive Officer

(Title of person signing)

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "AZALEA HEALTH INNOVATIONS, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF CONVERSION, FILED THE FOURTEENTH DAY OF JULY, A.D. 2016, AT 10:47 O'CLOCK A.M.

CERTIFICATE OF INCORPORATION, FILED THE FOURTEENTH DAY OF JULY, A.D. 2016, AT 10:47 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID CORPORATION, "AZALEA HEALTH INNOVATIONS, INC.".



6096184 8100H
SR# 20165423051

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

A handwritten signature in black ink, appearing to read "JWB", written over a horizontal line.

Authentication: 202850917
Date: 08-18-16

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:47 AM 08/14/2016
FILED 10:47 AM 07/24/2016
SH 2016-006414 - File Number 6096134

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

- 1.) The jurisdiction where the Non-Delaware Corporation first formed is Georgia
- 2.) The jurisdiction immediately prior to filing this Certificate is Georgia
- 3.) The date the Non-Delaware Corporation first formed is August 6, 2007
- 4.) The name of the Non-Delaware Corporation immediately prior to filing this Certificate is Azalea Health Innovations, Inc.
- 5.) The name of the Corporation as set forth in the Certificate of Incorporation is Azalea Health Innovations, Inc.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting Non-Delaware Corporation have executed this Certificate on the 14th day of July, A.D. 2016

By: 

Name: Baha Zeidan

Print or Type

Title: CEO

Print or Type

**CERTIFICATE OF INCORPORATION
OF
AZALEA HEALTH INNOVATIONS, INC.**

The undersigned, in order to form a corporation pursuant to Sections 101 and 102 of the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify as follows:

ARTICLE I

The name of the corporation shall be "Azalea Health Innovations, Inc." (the "Corporation").

ARTICLE II

The address of the registered office of the Corporation in the State of Delaware is 1675 South State Street, Suite B, in the City of Dover, County of Kent, Delaware 19901. The name of the Corporation's registered agent at such address is Capitol Services, Inc.

ARTICLE III

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

ARTICLE IV

The Corporation shall have the authority to issue Thirty-Four Million Two Hundred Seventy-Seven Thousand Eight Hundred Ninety-Six (34,277,896) shares of capital stock, \$0.0001 par value per share, of which Twenty Five Million (25,000,000) shares shall be designated Common Stock (the "Common Stock") and Nine Million Two Hundred Twenty-Seven Thousand Eight Hundred Ninety-Six (9,227,896) shall be designated Preferred Stock (the "Preferred Stock"), of which One Million Eight Hundred Thirty-Two Thousand Ninety-Six (1,832,096) shares shall be designated Series A Preferred Stock (the "Series A Preferred Stock") and Seven Million Five Hundred Forty-seven Thousand Three Hundred Twenty (7,547,320) shares shall be designated Series B Preferred Stock (the "Series B Preferred Stock"). The Preferred Stock shall have the rights, preferences, privileges and restrictions set forth below in Article V, and the Common Stock shall have the rights, preferences, privileges and restrictions set forth below in Article VI.

ARTICLE V

The rights, preferences, privileges, restrictions and other matters relating to the Preferred Stock of the Corporation are as follows.

Certain capitalized terms used in this Certificate of Incorporation of the Corporation shall set forth below:

"Adjusted Per Share Purchase Price" shall mean the "Midnight Adjusted Per Share Purchase Price" as described and determined pursuant to Exhibit J to the Stock Purchase Agreement.

"Affiliate" shall mean any of the following: (a) any "affiliate" as defined under Rule 12b-2 of the Securities Exchange Act of 1934, as amended, (b) any individual or entity who directly or indirectly controls, is controlled by or is under common control with the specified individual or entity, and (c) any pair of entities or an individual and an entity in which one of the two parties (in such pair) owns, directly or indirectly, at least 20% of the outstanding Equity Interest of the other party.

"Available Free Cash Flow" shall mean, without duplication, for any period of determination, the Corporation's Net Income (Deficit) *less* Capital Expenditures, *less* increases and *plus* decreases in Net Working Capital, *less* non-cash gains and *plus* non-cash expenditures.

"Azalea Founders" shall mean Baha Zeiden, Daniel Noel Henry, Jr., and Douglas M. Swords.

"Business" means the business of providing cloud-based Revenue Cycle Management services and providing Electronic Health Records solutions to healthcare providers.

"Board" means the board of directors of the Corporation.

"Capital Expenditures" shall mean all expenditures that, in accordance with GAAP, would be required to be capitalized and shown on the balance sheet of the Corporation but excluding expenditures made in connection with the replacement, substitution or restoration of assets in connection with (a) the receipt of insurance proceeds (or similar recoveries) paid on account of the loss of or damage to the assets being replaced or restored; (b) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced; or (c) proceeds received from a sale of similar assets that are being replaced.

"Convertible Securities" shall mean evidences of Indebtedness, shares of stock (including, without limitation, the Preferred Stock), or other securities that are convertible into or exchangeable for, with or without payment of additional consideration, shares of Common Stock.

"Corporation Enterprise Value" means the sum of the fair market value of all of the outstanding shares of capital stock and Convertible Securities of the Corporation as reasonably determined by a majority of the Board, taking into account the amount to be paid in connection with the applicable Liquidating Event.

"EBITDA" means, for any period of determination, the sum of (1) Net Income (Deficit) from operations for such period; *plus* (2) amounts deducted in computing Net Income (Deficit) for (a) interest expense, (b) foreign, federal, state and local income taxes, and (c) depreciation and amortization; *plus* (3) losses from the sale of assets outside the Corporation's Ordinary Course of Business; *minus* (4) gains from the sales of assets outside the Corporation's Ordinary

Course of Business; *plus* (5) other non-recurring or extraordinary expenses or losses for such period; *minus* (6) other non-recurring or extraordinary gains for such period; *minus* (7) any gains or losses pertaining to equity valuations, including any income statement impact (positive or negative) of any put liability or other similar matter.

"Electronic Health Records" means the electronic version of a patient's medical history, which the provider maintains, and includes all of the key administration clinical data relevant to that person's care under a particular healthcare provider, including demographics, progress notes, problems, laboratory data and medications.

"Equity Interests" shall mean all of the shares of stock, equity or other ownership interests in a Person, including (i) any securities directly or indirectly convertible into or exchangeable for any equity or other ownership interest in such Person, including all warrants, options and other rights to acquire an equity or other ownership interest of such person and (ii) any other rights containing phantom or other equity participation features.

"GAAP" shall mean generally accepted accounting principles as consistently applied and as promulgated by the Financial Accounting Standards Board or any other governing body or boards having jurisdiction, authority or responsibility for promulgating accounting standards in the United States, as in effect from time to time.

"Indebtedness" shall mean all (a) obligations for borrowed money, (b) notes, bonds, debentures, mortgages and similar obligations, (c) capital obligations and leases, (d) guaranties and contingent obligations for the debts or obligations of another Person, (e) obligations to pay the deferred purchase or acquisition price of property or services (including under conditional sale or other title retention agreements), (f) accounts payable or other liabilities not arising in the Ordinary Course of Business, including accounts payable for equipment purchases, or accounts payable that are more than 90 calendar days past their due dates, (g) obligations in respect of letters of credit, bonds, guaranties, reimbursement agreements and similar instruments, (h) obligations in respect of futures Contracts, forward Contracts, swaps, options or similar arrangements, (i) off balance sheet financing transactions, (j) all obligations under facilities for the discount or sale of account receivables and (k) all obligations that are required to be classified as long term liabilities on a balance sheet under GAAP (in each case whether such obligations are contingent or otherwise).

"Net Income (Deficit)" shall mean, for any applicable period, the net income (or deficit) of the Corporation for such period, which shall include all revenue of the Corporation less all costs of goods sold and all other expenses of the Corporation and less taxes of the Corporation, all determined in accordance with GAAP, but excluding, in any event: (a) any gains or losses on the sale or other disposition, not in the Ordinary Course of Business, of investments or fixed or capital assets, and any taxes on the excluded gains and any tax deductions or credits on account on any excluded losses; and (b) net earnings of any Person in which the Corporation has an ownership interest, unless such net earnings shall have actually been received by the Corporation in the form of cash distributions.

"Net Working Capital" shall mean current assets, less cash and cash equivalents *minus* current liabilities, all of such items determined in accordance with GAAP, less all Indebtedness included in current liabilities.

"Ordinary Course of Business" shall mean at any date of determination, in the ordinary course of the business, as conducted by the Corporation (and any predecessor of the Corporation), for a 12 month period prior to the applicable determination date, consistent with the Corporation's past custom and practice.

"Person" shall mean any corporation, partnership, limited liability company, trust, individual, unincorporated organization or a governmental agency or political subdivision thereof, as the context may require.

"Recapitalization" means any combination, consolidation, recapitalization, stock split, stock dividend or similar transaction.

"Related Parties" means the Corporation, its Affiliates, employees, directors, stockholders, and officers and their respective Affiliates.

"Revenue Cycle Management" means the process of managing a doctor or clinic's claims processing, payment and income generation.

"Qualified Public Offering" means an underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock of the Corporation to the public where the Corporation receives proceeds of \$50,000,000 or more (net of underwriters discounts and commissions).

"Stock Purchase Agreement" shall mean the Series B Preferred Stock Purchase Agreement between the Corporation and the purchasers of Series B Preferred Stock set forth therein, dated on or about July 14, 2016.

"Stock Purchase Rights" shall mean any warrants, options or other rights to subscribe for, purchase or otherwise acquire any shares of Common Stock or any Convertible Securities.

"TTM EBITDA" means the sum of the Corporation's EBITDA during the most recently completed twelve calendar months, on a rolling basis.

A. Dividends.

1. Series B Dividends.

(a) Except for the rights of the holders of Series A Preferred Stock to the Series A Redemption Price (if any), as hereinafter defined, which shall be payable on a pari passu basis to any dividends payable hereunder to the holders of Series B Preferred Stock, the holders of shares of Series B Preferred Stock, in preference to the holders of shares of Series A Preferred Stock and holders of Common Stock, shall be entitled to receive, out of funds that are legally available therefor, cash dividends at the rate of eight percent (8%) of the Series B Original Price (as defined below) per annum accruing from the date of first issue on each

outstanding Series B Preferred Stock (the "Accruing Series B Dividends"). Such dividends shall accrue from day to day, whether or not declared, and shall be cumulative; provided, however, that except as set forth in this Section A or in Section B.1. of this Article V, such dividends shall be payable only when, as, and if declared by the Board, and the Corporation shall be under no obligation to pay such dividends. Notwithstanding the foregoing, the Accruing Series B Dividends that accrue in any fiscal quarter of the Corporation (the "Quarterly Accrued Series B Dividends"), shall be payable in arrears within thirty (30) days of the end of such fiscal quarter in the event that the Available Free Cash Flow of the Corporation for such fiscal quarter and the preceding three (3) fiscal quarters, in aggregate, exceeds Two Million Dollars (\$2,000,000).

Such dividends shall be paid in immediately available funds. The Board of Directors may fix in advance a record date for the determination of holders of shares of Series B Preferred Stock entitled to receive payment of any dividend thereon, which record date shall be no more than thirty (30) calendar days and no less than ten (10) calendar days prior to the date fixed for the payment thereof.

(b) No cash dividend or other distribution (other than a stock dividend giving rise to an adjustment under Section F of this Article V and made in accordance with the provisions of this Certificate Incorporation) shall be paid, or declared and set apart for payment, on any share of Common Stock or Series A Preferred Stock, other than the Series A Redemption Price, which shall be payable on a pari passu basis in proportion to the amount due with respect to any dividend that is payable with respect to any shares of Series B Preferred Stock unless (i) all Accruing Series B Dividends have been paid in full, (ii) the portion of the Series B Redemption Price then due (if any) has been paid in full, and (iii) a cash dividend or other distribution is paid, or declared and set apart for payment (as applicable), with respect to all outstanding shares of Series B Preferred Stock, that is equal to or greater, on an as converted to Common Stock basis, to the cash dividend or other distribution to be paid on the Common Stock.

2. Series A Dividends.

(a) Subject to the provisions of Section A.1. above, the holder of each share of the Series A Preferred Stock shall be entitled to cash dividends, payable only when, as and if declared by the Board, out of funds of the Corporation legally available for that purpose, on each outstanding share of Series A Preferred Stock, which shall be paid prior to and in preference to any declaration or payment of any dividend or other distribution on any Common Stock.

(b) No cash dividend or other distribution (other than a stock dividend giving rise to an adjustment under Section F of this Article V and made in accordance with the provisions of this Certificate Incorporation) shall be paid, or declared and set apart for payment, on any share of Common Stock or Series B Preferred Stock, other than the Series B Accruing Dividends and the Series B Redemption Price then due (if any), the latter of which shall be payable on a pari passu basis in proportion to the amount due with respect to any dividend that is payable with respect to any shares of Series A Preferred Stock, unless (i) the portion of the Series A Redemption Price then due (if any) has been paid in full, and (ii) a cash dividend or other distribution is paid, or declared and set apart for payment (as applicable), with respect to all outstanding shares of Series A Preferred Stock, that is equal to or greater, on an as converted to Common Stock basis, to the cash dividend or other distribution to be paid on the Common Stock.

3. Common Stock Dividends. Subject to Sections A.1. and A.2. above, no cash dividend or other distribution (other than a stock dividend giving rise to an adjustment under Section F below and made in accordance with the provisions of this Certificate Incorporation) shall be paid, or declared and set apart for payment, on any share of Common Stock unless the Accruing Series B Dividends have been paid in full, and a cash dividend or other distribution is paid, or declared and set apart for payment (as applicable), with respect to all outstanding shares of Preferred Stock, that is equal, on an as converted to Common Stock basis, to the cash dividend or other distribution to be paid on the Common Stock.

B. Preference on Liquidation.

1. Preferred Stock Preference Amount.

(a) Upon the occurrence of any Liquidating Event (as defined below), out of the assets of the Corporation lawfully available for distribution to its stockholders, before any payment shall be made in respect of the Common Stock or any other class or series of capital stock then outstanding, each holder of Series B Preferred Stock then outstanding shall be paid, an amount equal to \$1.4059095 per share of Series B Preferred Stock, subject to adjustment in the event of any Recapitalizations affecting such shares (the "Series B Original Price") (subject to adjustment as set forth below) per share of Series B Preferred Stock, plus all declared dividends that are then unpaid for each share of Series B Preferred Stock then held by such holder and all Accruing Series B Dividends that are unpaid and have not been declared for all shares of Series B Preferred Stock then held by such holder (such sum, the "Series B Preference Amount"). The Series B Original Price was determined by using the Per Share Purchase Price set forth in the Stock Purchase Agreement. In the event that an adjustment to the number of shares of Series B Preferred Stock issued under the Stock Purchase Agreement is made pursuant to Section 1.1 of the Stock Purchase Agreement (such adjustment, the "Series B Preferred Stock Issuance Adjustment"), the Series B Original Price shall be deemed adjusted *ab initio* and shall be equal to the Adjusted Per Share Purchase Price (the "Series B Original Price Adjustment").

If, upon the occurrence of a Liquidating Event, the assets and funds distributed among the holders of Preferred Stock pursuant to this Section B.1.(a) shall be insufficient to permit the payment to such holders of the full amount aforesaid, then the entire remaining assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of Preferred Stock in proportion to the aggregate amount that all such holders are entitled to receive under this Section B.1.(a).

(b) After payment of the amounts due (in full) pursuant to Section B.1.(a) above, upon the occurrence of any Liquidating Event, out of the assets of the Corporation lawfully available for distribution to its stockholders, before any payment shall be made in respect of the Common Stock or any other class or series of capital stock other than the Series B Preferred Stock then outstanding, each holder of Series A Preferred Stock then outstanding shall be paid, an amount equal to \$1.22351905 per share of Series A Preferred Stock, subject to adjustment in the event of any Recapitalizations affecting such shares (as adjusted, the "Series A Original Price"), plus all accrued or declared dividends that are then unpaid for each share of Series A Preferred Stock then held by such holder (such sum, the "Series A Preference Amount").

If, upon the occurrence of a Liquidating Event, the assets and funds distributed among the holders of Series A Preferred Stock pursuant to this Section B.1.(b) shall be insufficient to permit the payment to such holders of the full amount aforesaid, then the entire remaining assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of the Series A Preferred Stock in proportion to the aggregate Series A Preference Amount that all such holders are entitled to receive.

2. Remaining Assets. Upon the occurrence of any Liquidating Event, after payment has been made to the holders of the Preferred Stock of the full amounts set forth in Section B.1., any remaining assets of the Corporation legally available for distribution, if any, shall be distributed ratably among the holders of the Corporation's Series A Preferred Stock, Series B Preferred Stock and Common Stock (as if such shares of Series A Preferred Stock and Series B Preferred Stock had been converted voluntarily into Common Stock pursuant to Section E hereof immediately prior to such Liquidating Event); provided, however, that: (a) if the aggregate amount that the holders of Series A Preferred Stock are entitled to receive under Subsection B.1 and this Subsection B.2 for each share of Series A Preferred Stock shall exceed four (4) times the Series A Original Price (the "Maximum Series A Participation Amount"), then each holder of Series A Preferred Stock shall instead be entitled to receive for such share of Series A Preferred Stock upon such Liquidating Event the greater of (i) the Maximum Series A Participation Amount or (ii) the amount such holder would have received if all shares of Series A Preferred Stock had been converted into Common Stock immediately prior to such Liquidating Event; and (b) if the aggregate amount that the holders of Series B Preferred Stock are entitled to receive under Subsection B.1 and this Subsection B.2 for each share of Series B Preferred Stock shall exceed three (3) times the Series B Original Price (the "Maximum Series B Participation Amount"), then each holder of Series B Preferred Stock shall instead be entitled to receive for such share of Series B Preferred Stock upon such Liquidating Event the greater of (i) the Maximum Series B Participation Amount or (ii) the amount such holder would have received if all shares of Series B Preferred Stock had been converted into Common Stock immediately prior to such Liquidating Event. The aggregate amount which a holder of a share of Series A Preferred Stock is entitled to receive under Subsection B.1 and this Subsection B.2 is hereinafter referred to as the "Series A Liquidation Amount." The aggregate amount which a holder of a share of Series B Preferred Stock is entitled to receive under Subsection B.1 and this Subsection B.2 is hereinafter referred to as the "Series B Liquidation Amount."

3. Notice. Unless waived by the holders of a majority of the then outstanding shares of Series A Preferred Stock and the holders of a majority of the then outstanding shares of Series B Preferred Stock, written notice of any such Liquidating Event stating a payment date, the place where such payment shall be made, the amount of each payment in liquidation and the amount of dividends to be paid shall be given by first class mail, postage prepaid, not less than ten (10) days prior to the payment date stated therein, to each holder of record of the Series A Preferred Stock and each holder of record of the Series B Preferred Stock, as applicable, at each such holder's address as shown in the records of the Corporation; provided that (a) any holder of Series A Preferred Stock may convert its shares of Series A Preferred Stock to Common Stock pursuant to Section E during such period at any time prior to the payment date stated in such notice, and (b) any holder of Series B Preferred Stock may convert its shares of Series B Preferred Stock to Common Stock pursuant to Section E during such period at any time prior to the payment date stated in such notice.

4. Liquidating Event. A "Liquidating Event" shall mean (a) any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, or (b) any transaction or series of transactions resulting in any of the following: (i) a sale, lease, exclusive license, transfer, exchange or other disposition of all or substantially all the assets of the Corporation when taken as a whole to include the assets (whether transferred or not) of any subsidiary of the Corporation, or (ii) a merger, consolidation, sale or reorganization of the Corporation or a subsidiary of the Corporation as a result of which stockholders of the Corporation immediately prior to such merger, consolidation, sale or reorganization (A) possess less than a majority of the voting power of the acquiring, surviving or successor entity immediately following such merger, consolidation, sale or reorganization or (B) do not possess the voting power of the acquiring, surviving or successor entity immediately following such merger, consolidation, sale or reorganization in substantially the same proportions in relation to each other as such stockholders possessed immediately prior thereto; provided, however, if the holders of a majority of the then outstanding shares of Series A Preferred Stock, voting separately as a class, and the holders of a majority of the then outstanding shares of Series B Preferred Stock, voting separately as a class, so elect by giving written notice to the Corporation before the effective date of a merger, consolidation, sale or reorganization that would otherwise be a Liquidating Event, such merger or consolidation shall not be deemed a Liquidating Event and the provisions of Subsection E.7 shall apply. Upon the occurrence of any Liquidating Event that would involve the distribution of assets other than cash with respect to the outstanding shares of Series A Preferred Stock or Series B Preferred Stock, as applicable, the amount of such distribution shall be deemed to be the fair market value thereof at the time of such distribution as determined in good faith by the Board of Directors, and any securities to be distributed in such event shall be valued as follows:

(i) Securities not subject to investment letter or other similar restrictions on free marketability covered by subsection (ii) hereof:

(A) if traded on a securities exchange or NASDAQ, the value shall be deemed to be the volume weighted average of the closing prices of the securities on such exchange over the 30-day period ending three (3) business days prior to the closing;

(B) if actively traded over-the-counter, the value shall be deemed to be the volume weighted average of the closing bid or sale prices (whichever is applicable) over the 30-day period ending three (3) business days prior to the closing; and

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

(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 provided in clauses (A), (B) or (C) of subsection (i) hereof, to reflect the adjusted fair market value thereof, as reasonably determined by the Board of Directors in good faith.

5. Effecting a Liquidating Event.

(a) The Corporation shall not have the power to effect a Liquidating Event that is a merger or consolidation in which the Corporation is a constituent party unless the agreement or plan of merger or consolidation for such transaction (the "Merger Agreement") provides that the consideration payable to the stockholders of the Corporation shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections B.1 and B.2 hereof.

(b) In the event of a Liquidating Event that is a merger or consolidation in which a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, or in the event of a Liquidating Event that is referred to in Subsection B.4(b)(i), if the Corporation does not effect a dissolution of the Corporation under the DGCL within 90 days after such Liquidating Event, then (i) the Corporation shall send a written notice to each holder of Preferred Stock no later than the 90th day after the Liquidating Event advising such holders of their right (and the requirements to be met to secure such right) pursuant to the terms of the following clause (ii) to require the redemption of such shares of Preferred Stock, and (ii) to the extent so elected by, with respect to the Series A Preferred Stock, the holders of a majority of the then outstanding shares of Series A Preferred Stock and, with respect to the Series B Preferred Stock, the holders of a majority of the then outstanding shares of Series B Preferred Stock, the Corporation shall use the consideration received by the Corporation from such Liquidating Event (net of any retained liabilities associated with the assets sold or technology licensed, as determined in good faith by the Board of Directors), together with any other assets of the Corporation available for distribution to its stockholders (the "Available Proceeds"), to the extent legally available therefor, on the 150th day after such Liquidating Event, to redeem, as applicable, all outstanding shares of Series A Preferred Stock at a price per share equal to the Series A Liquidation Amount and all outstanding shares of Series B Preferred Stock at a price per share equal to the Series B Liquidation Amount and in accordance with the liquidation preferences set forth above. The provisions of Subsection C regarding the mechanics of effecting a redemption shall apply, with such necessary changes in the details thereof as are necessitated by the context, to the redemption of the Series A Preferred Stock and Series B Preferred Stock pursuant to this Subsection B.5. Prior to the distribution or redemption provided for in this Subsection B.5, the Corporation shall not expend or dissipate the consideration received for such Liquidating Event, except to discharge expenses incurred in connection with such Liquidating Event or in the Ordinary Course of Business.

(c) Allocation of Contingent Consideration. In the event of a Liquidating Event that is a merger or consolidation, if any portion of the consideration payable to the stockholders of the Corporation is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies, the Merger Agreement shall provide that (a) the portion of such consideration that is not placed in escrow and not subject to any contingencies (the "Initial Consideration") shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections B.1 and B.2 as if the Initial Consideration were the only consideration payable in connection with such Liquidating Event and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with Subsections B.1 and B.2 after taking into account the previous payment of the Initial Consideration as part of the same transaction.

C. Redemption of Preferred Stock.

1. At any time following the fifth (5th) anniversary of the first issue date of first share of Series B Preferred Stock (the "Series B Issue Date"), if the holders of at least a majority of the shares of Series B Preferred Stock then outstanding have following such time attempted in a bona fide manner to sell the shares of Series B Preferred Stock held by them and have been unable to sell such shares, then, to the extent shares of Series B Preferred Stock have not been previously redeemed or converted, the holders of at least a majority of the shares of Series B Preferred Stock then outstanding (the "Electing Series B Holders"), voting together as a separate class, may require the Corporation, to the extent that it may lawfully do so, to redeem, subject to the provisions of this Subsection C.1, all of the then outstanding shares of Series B Preferred Stock in three (3) equal annual installments (each date on which such redemption occurs, a "Series B Redemption Date"); provided that the Corporation shall receive written notice (the "Series B Redemption Notice") from the Electing Series B Holders requesting such redemption in accordance with this Subsection C.1; provided, further, that notwithstanding the foregoing, the Corporation may elect, by providing written notice of such election to each holder of Series B Preferred Stock within thirty (30) days of receiving the Series B Redemption Notice, to redeem all of the then outstanding shares of Series B Preferred Stock in one (1) lump sum installment on the Initial Series B Redemption Date (as defined below). For purposes of this Subsection C.1, the holders of a majority of the shares of Series B Preferred Stock shall be deemed to have attempted in a bona fide manner to sell their shares of Series B Preferred Stock if (a) they have provided the Corporation and each other holder of Preferred Stock with at least 60 days' prior notice of any such proposed sale, and (b) they either have (i) received a written proposal to purchase such shares or (ii) engaged a broker or other third party service provider to identify a purchaser for at least 30 days. Within thirty (30) days of the Corporation receiving the Series B Redemption Notice, the Corporation shall provide written notice to each holder of Series B Preferred Stock, other than the Electing Series B holders, notifying such holders that the Electing Series B Holders have elected to have all outstanding shares of Series B Preferred Stock redeemed by the Corporation. Upon receipt of a Series B Redemption Notice, the Corporation shall apply all of its assets to any such redemption (and any redemption that may occur pursuant to Subsection C.3 below), and to no other corporate purpose, except to the extent prohibited by the DGCL governing distributions to stockholders. Promptly following receipt by the Corporation of the Series B Redemption Notice, the Electing Series B Holders and the Corporation shall set the initial Series B Redemption Date (the "Initial Series B Redemption Date"), such Initial Series B Redemption Date to occur on the date one hundred twenty (120) days after receipt by the Corporation of the Series B Redemption Notice, unless otherwise agreed by the holders of at least a majority of the outstanding shares of Series B Preferred Stock and the Corporation (or such later date as is thirty (30) days after the Appraisal Firm shall provide notice (which such notice shall not be unreasonably delayed by the Corporation or the Appraisal Firm) to the Corporation of the fair market value of the shares of Series B Preferred Stock). The second Series B Redemption Date shall be on the first anniversary of the Initial Series B Redemption Date and the third Series B Redemption Date shall be on the second anniversary of the Initial Series B Redemption Date. The Corporation shall redeem such shares of Series B Preferred Stock at a per share redemption price equal to the fair market value per share of the Series B Preferred Stock (the determination of the fair market value of the Series B Preferred Stock shall be made as of the initial Series B Redemption Date (without any discount for minority ownership interest, illiquidity or otherwise)) to be based on mutual agreement by the

Board of Directors and the holders of at least a majority of the outstanding shares of Series B Preferred Stock, or, if an agreement cannot be reached within fifteen (15) days of receipt of the date of the Series B Redemption Notice, based on a valuation of the Corporation as finally determined by an independent third party appraiser chosen as follows. Within thirty (30) days of the Series B Redemption Notice, the Corporation shall provide the Electing Series B Holders with the name of an independent valuation firm experienced in appraising companies comparable to the Corporation, and the Electing Series B Holders shall provide the Corporation with the name of an independent valuation firm experienced in appraising companies comparable to the Corporation, and such independent valuation firms shall, within fifteen days, mutually select an independent third party appraiser experienced in appraising companies comparable to the Corporation (the "Appraisal Firm"), which Appraisal Firm shall determine, as of the date of receipt of the Series B Redemption Notice, the fair market value of the shares of Series B Preferred Stock (which, when aggregated with the Redemption Dividend (if any) due, shall be known as the "Series B Redemption Price"). The redemption of the shares of Series B Preferred Stock shall be made from any source of funds legally available therefor, until all shares of Series B Preferred Stock for which redemption has been so requested have been redeemed or converted. If no funds or insufficient funds are legally available at the time of any Series B Redemption Date to redeem all of the outstanding shares of Series B Preferred Stock then due to be redeemed, then the Corporation shall redeem shares of Series B Preferred Stock from holders thereof pro rata based upon the aggregate Series B Redemption Price of the shares to be redeemed, and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available. Shares of Series B Preferred Stock that are subject to redemption but that have not been redeemed and the Series B Redemption Price paid or set aside with respect thereto due to insufficient legally available funds shall continue to be entitled to the dividend, conversion and other rights, preferences, privileges and restrictions of such Series B Preferred Stock until such shares have been redeemed and the Series B Redemption Price has been paid or set aside thereto.

2. At least twenty (20) calendar days prior to each Series B Redemption Date, the Series B Redemption Notice shall be mailed, postage prepaid, by the Corporation to each holder of record (at the close of business on the record date determined by the Board of Directors of the Corporation) of the Series B Preferred Stock to be redeemed, at its post office address last shown on the records of the Corporation, specifying the Series B Redemption Date, the Series B Redemption Price, the place at which payment may be obtained and the date on which such holder's conversion rights as to such shares terminate, and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Series B Preferred Stock to be redeemed on the next Series B Redemption Date. On each Series B Redemption Date, the Series B Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. From and after a Series B Redemption Date, unless there shall have been a default in payment of the Series B Redemption Price, all dividend rights on the Series B Preferred Stock redeemed on such Series B Redemption Date shall cease, all rights of the holders of such shares as holders of the Series B Preferred Stock of the Corporation (except the right to receive the Series B Redemption Price upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. Each holder of shares

of Series B Preferred Stock to be redeemed on such Series B Redemption Date shall surrender the certificate or certificates representing such shares to the Corporation at the Corporation's principal executive office on or before the applicable Series B Redemption Date, and thereupon the Corporation shall pay the Series B Redemption Price for such shares to be paid as described in Subsection C.1 in immediately available funds, by wire transfer to an account designated by the holder of such shares or by certified or bank check payable to the order of such holder. Each stock certificate surrendered for redemption shall be canceled and retired.

3. At any time following the fifth (5th) anniversary of the Series B Issue Date, if the holders of at least a majority of the shares of Series A Preferred Stock then outstanding have following such time attempted in a bona fide manner to sell the shares of Series B Preferred Stock held by them and have been unable to sell such shares, then, to the extent such shares of Series A Preferred Stock have not been previously redeemed or converted, the holders of at least a majority of the shares of Series A Preferred Stock then outstanding (the "Electing Series A Holders"), voting together as a separate class, may require the Corporation, to the extent that it may lawfully do so, to redeem, subject to the provisions of this Subsection C.3, all of the then outstanding shares of Series A Preferred Stock in three (3) equal annual installments (each date on which such redemption occurs, a "Series A Redemption Date"); provided that the Corporation shall receive written notice (the "Series A Redemption Notice") from the Electing Series A Holders requesting such redemption in accordance with this Subsection C.3; provided, further, that notwithstanding the foregoing, the Corporation may elect, by providing written notice of such election to each holder of Series A Preferred Stock within thirty (30) days of receiving the Series A Redemption Notice, to redeem all of the then outstanding shares of Series A Preferred Stock in one (1) lump sum installment on the Initial Series A Redemption Date (as defined below). For purposes of this Subsection C.3, the holders of a majority of the shares of Series A Preferred Stock shall be deemed to have attempted in a bona fide manner to sell their shares of Series A Preferred Stock if (a) they have provided the Corporation and each other holder of Preferred Stock with at least 60 days' prior notice of any such proposed sale, and (b) they either have (i) received a written proposal to purchase such shares or (ii) engaged a broker or other third party service provider to identify such a purchaser for at least 30 days. Within thirty (30) days of the Corporation receiving the Series A Redemption Notice, the Corporation shall provide written notice to each holder of Series A Preferred Stock, other than the Electing Series A holders, notifying such holders that the Electing Series A Holders have elected to have all outstanding shares of Series A Preferred Stock redeemed by the Corporation. Upon receipt of a Series A Redemption Notice, the Corporation shall apply all of its assets to any such redemption (and any redemption that may take place pursuant to Subsection C.1 above), and to no other corporate purpose, except to the extent prohibited by the DGCL governing distributions to stockholders. Promptly following receipt by the Corporation of the Series A Redemption Notice, the Electing Series A Holders and the Corporation shall set the initial Series A Redemption Date (the "Initial Series A Redemption Date"), such Initial Series A Redemption Date to occur on the date one hundred twenty (120) days after receipt by the Corporation of the Series A Redemption Notice, unless otherwise agreed by the holders of at least a majority of the outstanding shares of Series A Preferred Stock and the Corporation (or such later date as is thirty (30) days after the appraisal firm shall provide notice (which such notice shall not be unreasonably delayed by the Corporation or the appraisal firm) to the Corporation of the fair market value of the shares of Series A Preferred Stock). The second Series A Redemption Date shall be on the first anniversary of the Initial Series A Redemption Date and the third Series A

Redemption Date shall be on the second anniversary of the Initial Series A Redemption Date. The Corporation shall redeem such shares of Series A Preferred Stock at a per share redemption price equal to the greater of (i) the Series A Preference Amount as of the date of the Series A Redemption Notice, or (ii) the fair market value per share of the Series A Preferred Stock (the determination of the current fair market value of the Series A Preferred Stock as of the applicable Series A Redemption Date (without any discount for minority ownership interest, illiquidity or otherwise) to be based on mutual agreement by the Board of Directors and the holders of at least a majority of the outstanding shares of Series A Preferred Stock, or, if an agreement cannot be reached within thirty (30) days of the Series A Redemption Date, based on a valuation of the Corporation as finally determined by an independent third party appraiser mutually acceptable to the Board of Directors and the holders of at least a majority of the outstanding shares of Series A Preferred Stock) as of the applicable Series A Redemption Date (such greater amount with respect to the Series A Preferred Stock plus the Redemption Dividend due (if any), the "Series A Redemption Price"). The redemption of the shares of Series A Preferred Stock shall be made from any source of funds legally available therefor, until all shares of Series A Preferred Stock for which redemption has been so requested have been redeemed or converted. If no funds or insufficient funds are legally available at the time of any Series A Redemption Date to redeem all of the outstanding shares of Series A Preferred Stock then due to be redeemed, then the Corporation shall redeem shares of Series A Preferred Stock from holders thereof pro rata based upon the aggregate Series A Redemption Price of the shares to be redeemed, and shall redeem the remaining shares to be redeemed as soon as sufficient funds are legally available. Shares of Series A Preferred Stock that are subject to redemption but that have not been redeemed and the Series A Redemption Price paid or set aside with respect thereto due to insufficient legally available funds shall continue to be entitled to the dividend, conversion and other rights, preferences, privileges and restrictions of such Series A Preferred Stock until such shares have been redeemed and the Series A Redemption Price has been paid or set aside thereto.

4. At least twenty (20) calendar days prior to each Series A Redemption Date, written notice shall be mailed, postage prepaid, by the Corporation to each holder of record (at the close of business on the record date determined by the Board of Directors of the Corporation) of the Series A Preferred Stock to be redeemed, at its post office address last shown on the records of the Corporation, specifying the Series A Redemption Date, the Series A Redemption Price, the place at which payment may be obtained and the date on which such holder's conversion rights as to such shares terminate, and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, his, her or its certificate or certificates representing the shares of Series A Preferred Stock to be redeemed on the next Series A Redemption Date. On each Series A Redemption Date, the Series A Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. From and after a Series A Redemption Date, unless there shall have been a default in payment of the Series A Redemption Price, all dividend rights on the Series A Preferred Stock redeemed on such Series A Redemption Date shall cease, all rights of the holders of such shares as holders of the Series A Preferred Stock of the Corporation (except the right to receive the Series A Redemption Price upon surrender of their certificate or certificates) shall cease with respect to such shares, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. Each holder of shares of Series A Preferred Stock to be redeemed on such Series A Redemption Date shall surrender the certificate or certificates

representing such shares to the Corporation at the Corporation's principal executive office on or before the applicable Series A Redemption Date, and thereupon the Corporation shall pay the Series A Redemption Price for such shares to be paid as described in Subsection C.3 in immediately available funds, by wire transfer to an account designated by the holder of such shares or by certified or bank check payable to the order of such holder. Each stock certificate surrendered for redemption shall be canceled and retired.

5. Upon the failure of the Corporation to redeem any shares of Series A Preferred Stock or Series B Preferred Stock requested to be redeemed pursuant to this Section C, the holder of each such share of Preferred Stock not redeemed on any applicable redemption date shall be entitled to annual cumulative cash dividends at the annual rate of 12% of the Series A Original Price or Series B Original Price (as applicable) (as defined in Section B above and subject to adjustment in the event of any combination, consolidation, recapitalization, stock split, stock dividend or the like) until such shares of Preferred Stock have been redeemed (the "Redemption Dividend"); provided, however, that the initial accrual period for such Redemption Dividend with respect to any shares of Preferred Stock not redeemed on an applicable redemption date shall begin on the applicable Series B Redemption Date or Series A Redemption Date on which the Corporation fails to redeem such shares of Preferred Stock requested to be redeemed pursuant to this Section C. Such dividends shall be due and payable with respect to a share of Preferred Stock (i) when, as and if declared by the Board of Directors (and shall be paid with respect to the Series B Preferred Stock, in lieu of Accruing Series B Dividends, which shall not accrue and be payable for any period that the Redemption Dividends shall be accruing), (ii) upon a Liquidating Event (and shall be paid with respect to the Series B Preferred Stock, in lieu of Accruing Series B Dividends, which shall not be payable for any period that the Redemption Dividends shall be accruing), or (iii) upon redemption of such shares of Preferred Stock pursuant to this Section C.

6. In the event the Corporation may become obligated to redeem the shares of Series B Preferred Stock and the shares of Series A Preferred Stock, and the funds of the Corporation legally available for distribution shall not be sufficient to redeem all shares of Series B Preferred Stock and shares of Series A Preferred Stock, any payments shall be made to the holders of Preferred Stock pro rata based upon the aggregate remaining payments to be made to holders of Series B preferred Stock and holders of Series A Preferred Stock.

D. Voting.

1. General Rights. Except as otherwise expressly provided herein or as required by law, the holder of each share of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of Preferred Stock could then be converted and shall have voting rights and powers equal to the voting rights and powers of the Common Stock (except as otherwise expressly provided herein or as required by law, voting together with the Common Stock as a single class) and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Corporation. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares of Common Stock into which shares of Preferred Stock held by each holder could be converted) shall be reduced to the nearest whole number.

2. Protective Provisions.

(a) Separate Vote of Series A Preferred. In addition to any other rights provided by law or as set forth in this Certificate of Incorporation, for so long as at least twenty-five percent (25%) of the shares of the Series A Preferred Stock remain outstanding, the Corporation, without first obtaining the affirmative vote or written consent of the holders of a majority of the then outstanding shares of the Series A Preferred Stock, consenting or voting separately as a single class, shall not, directly or indirectly, whether by merger, consolidation, through a subsidiary or otherwise, do any of the following (or permit its direct or indirect subsidiaries to do any of the following), and any such act or transaction entered into without such vote or consent shall be null and void *ab initio*, and of no force or effect:

(i) enter into or cause the Corporation to become subject to any agreement that would materially restrict the Corporation's performance of its obligations under the terms of this Certificate of Incorporation or the Bylaws of the Corporation (as may be amended from time to time in accordance herewith);

(ii) pay any dividends, other than Accruing Series B Dividends or Redemption Dividends, or make any distributions to its stockholders in an amount greater than fifty percent (50%) of Available Free Cash Flow, on an annualized basis;

(iii) authorize, effect or undergo a voluntary or involuntary liquidation, dissolution or winding up of the Corporation or its business;

(iv) redeem, purchase or otherwise acquire for value, or apply any of its assets to the redemption, retirement, purchase or acquisition, directly or indirectly, through subsidiaries or otherwise, of any shares of its capital stock, except for (1) repurchases of shares from former employees, directors or consultants at the original issuance prices for such shares pursuant to agreements or arrangements approved by the Board of Directors or (2) the redemption of the Preferred Stock as provided for in Section C of this Article V;

(v) authorize, issue or obligate itself to issue any new or existing class or classes or series of capital stock having any preference or priority as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series A Preferred Stock, or authorize or issue shares of stock of any class or any bonds, debentures, notes or other obligations convertible into or exchangeable for, or having option rights to purchase, any shares of stock of the Corporation or any direct or indirect subsidiary of the Corporation having any preference or priority as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series A Preferred Stock unless in connection with an acquisition of any Person set forth on Schedule 1.1 of the Stock Purchase Agreement or any Person that the Company, within ninety (90) days of the date of the Stock Purchase Agreement, notifies the Purchasers should be added to Schedule 1.1 of the Stock Purchase Agreement in accordance with the requirements set forth in the Stock Purchase Agreement;

(vi) reclassify any shares of Common Stock or other class or series of capital stock into shares having any preference or priority, or amend or modify the

rights, preferences or privileges of any class or series of capital stock to grant any preference or priority, as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series A Preferred Stock, or otherwise effect any other recapitalization of the Corporation;

(vii) alter or change any of the powers, preferences, privileges or rights of the Series A Preferred Stock so as to materially adversely affect any such powers, preferences, privileges or rights of the Series A Preferred Stock, or increase or decrease the total number of authorized shares of Series A Preferred Stock;

(viii) authorize or undertake any public offering of any securities of the Corporation other than in a Qualified Public Offering;

(ix) amend or repeal any provision of, or add any provision to, the Corporation's Certificate of Incorporation or Bylaws, each as amended from time to time, in a manner that materially and adversely affects the powers, preferences or rights of the Series A Preferred Stock; or

(x) authorize or effect, in a single transaction or series of related transactions, (A) the sale, lease, exclusive license, assignment, transfer, or other conveyance of the assets or operations or the revenue or income generating capacity of the Corporation that is or would be a Liquidating Event, or (B) any merger, consolidation, share exchange or any other transaction which results in the holders of the Corporation's capital stock prior to the transaction owning less than fifty percent (50%) of the voting power of the Corporation's capital stock after such transaction, unless any such transaction results in a Corporation Enterprise Value in excess of Seventy Million Dollars (\$70,000,000).

(b) Separate Vote of Series B Preferred Stock. In addition to any other rights provided by law or as set forth in this Certificate of Incorporation, for so long as at least twenty-five percent (25%) of the shares of the Series B Preferred Stock remain outstanding, the Corporation, without first obtaining the affirmative vote or written consent of the holders of a majority of the then outstanding shares of the Series B Preferred Stock, consenting or voting separately as a single class, shall not, directly or indirectly, whether by merger, consolidation, through a subsidiary or otherwise, do any of the following (or permit its direct or indirect subsidiaries to do any of the following), and any such act or transaction entered into without such vote or consent shall be null and void *ab initio*, and of no force or effect, which such vote or consent shall not be unreasonably withheld, conditioned or delayed by the holders of Series B Preferred Stock:

(i) amend or repeal any provision of, or add any provision to, the Corporation's Certificate of Incorporation or Bylaws of the Corporation or any subsidiary of the Corporation;

(ii) authorize, effect or undergo a (aa) voluntary or involuntary liquidation, dissolution or winding up of the Corporation or its businesses, or insolvency action, subject to the Corporation's ability to consummate a merger, or Liquidating Event as described in Section B.1.5. or (bb) a sale of more than 50% of the combined voting power of the then-outstanding securities of the Corporation;

(iii) create, incur, or assume any Indebtedness for the Corporation and its subsidiaries (in aggregate) greater than the Corporation's TTM EBITDA, excluding operating lines of credit established in the Ordinary Course of Business;

(iv) redeem, purchase or otherwise acquire for value, or apply any of its assets to the redemption, retirement, purchase or acquisition, directly or indirectly, through subsidiaries or otherwise, of any shares of its capital stock, except for (1) repurchases of shares from former employees, directors or consultants at the original issuance prices for such shares pursuant to agreements or arrangements approved by the Board of Directors or (2) the redemption of Preferred Stock as provided for in Section C of this Article V;

(v) authorize, issue or obligate itself to issue any new or existing class or classes or series of capital stock having any preference or priority as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series B Preferred Stock, or authorize or issue shares of stock of any class or any bonds, debentures, notes or other obligations convertible into or exchangeable for, or having option rights to purchase, any shares of stock of the Corporation or any direct or indirect subsidiary of the Corporation having any preference or priority as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series B Preferred Stock unless in connection with an acquisition set forth on Schedule 1.1 of the Stock Purchase Agreement;

(vi) pay any dividends, other than Accruing Series B Dividends or Redemption Dividends, or make any distributions to its stockholders in an amount greater than fifty percent (50%) of Available Free Cash Flow, on an annualized basis;

(vii) reclassify any shares of Common Stock or other class or series of capital stock into shares having any preference or priority, or amend or modify the rights, preferences or privileges of any class or series of capital stock to grant any preference or priority, as to dividends, liquidation, conversion, voting or assets superior to or on a parity with any such preference or priority of the Series B Preferred Stock, or otherwise effect any other recapitalization of the Corporation;

(viii) authorize or effect (x) the sale, lease, exclusive license, assignment, transfer, or other conveyance of more than twenty percent (20%) of the assets or operations or the revenue or income generating capacity of the Corporation and its direct and indirect subsidiaries taken as a whole (other than inventory in the Ordinary Course of Business and other assets reasonably and in good faith determined by the Corporation to be obsolete or no longer necessary for the operation of the business), (y) the sale of more than twenty percent (20%) of the Corporation's then outstanding shares of the Corporation's capital stock, or (z) any merger, consolidation, share exchange or any other transaction which results in the holders of the Corporation's capital stock prior to the transaction owning less than fifty percent (50%) of the voting power of the Corporation's capital stock after such transaction, unless any such transaction described in (x), (y), or (z) results in a Corporation Enterprise Value in excess of Seventy Million Dollars (\$70,000,000);

(ix) enter into or cause the Corporation to become subject to any agreement that would materially restrict the performance by the Corporation or any of its direct or indirect subsidiaries of the Corporation's obligations under the terms of this Certificate of Incorporation or the Bylaws of the Corporation (as may be amended from time to time in accordance herewith);

(x) authorize or undertake any public offering of any securities of the Corporation other than in a Qualified Public Offering;

(xi) alter in a material way the accounting treatment of the Corporation's financial statements except as required by a change to Applicable Law; or

(xii) in the event that the Corporation's unrestricted cash balance is less than \$200,000, make any payments (or series of payments or allow any direct or indirect subsidiary to make any payments) in excess of \$20,000 to a third party or one or more affiliated third parties, without consent from the Series B Director; provided that in the event that the Series B Director fails to respond within twenty-four (24) hours of delivery of a notice by the Corporation requesting such consent, the requirement for consent set forth in this Section D.2(b)(viii) shall be deemed waived.

(c) The holders of a majority of the then outstanding shares of Series B Preferred Stock, consenting or voting separately as a single class, shall have the right, pursuant to Section 204 of the DGCL, to retrospectively ratify any act taken by the Corporation in contravention of Section D.2.(b).

3. Election of Directors.

(a) For so long as any shares of Series A Preferred Stock remain outstanding, the holders of Series A Preferred Stock, voting together as a single class, shall be entitled to elect one (1) member of the Board at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors.

(b) For so long as any shares of Series B Preferred Stock remain outstanding, the holders of Series B Preferred Stock, voting together as a single class, shall be entitled to elect one (1) member of the Board (the "Series B Director") at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors. The Series B Director shall have the right to serve on all committees appointed by the Board and the boards and all board committees of subsidiaries of the Corporation.

(c) The holders of Common Stock shall be entitled to elect one (1) member of the Board, at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; provided, however, that if any of the Azalea Founders shall then be serving as the Chief Executive Officer of the

Corporation, the holders of Common Stock shall not be entitled to elect one (1) member of the Board.

(d) The holders of Common Stock and Preferred Stock, voting together on an as converted to Common Stock basis shall be entitled to elect all remaining members of the Board, at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors

(e) Any director elected as provided in this Subsection 3 may be removed only by the affirmative vote of the holders of the shares of the class or series of capital stock entitled to elect such director or directors. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. The Board shall meet not less frequently than once each calendar quarter, and the reasonable expenses of all members of the Board and the Series B Observer shall be paid by the Corporation.

E. Conversion Rights.

Each share of Preferred Stock shall be convertible at the option of the holder thereof, at any time after the issuance of such share, into fully paid and nonassessable share(s) of Common Stock of the Corporation in accordance with this Section E. The number of shares of Common Stock into which each share of the Preferred Stock may be converted shall be determined by dividing, as applicable, either the Series A Original Price by the Series A Conversion Price (in effect at the time of the conversion) or the Series B Original Price by the Series B Conversion Price (in effect at the time of the conversion).

1. Conversion Price. Before any adjustment is required pursuant to Section F hereof, the conversion price of Series A Preferred Stock (the "Series A Conversion Price" or "Conversion Price") shall be equal to \$1.22351905. Before any adjustment is required pursuant to Section F hereof, the conversion price of Series B Preferred Stock (the "Series B Conversion Price" or "Conversion Price") shall be equal to \$1.4059095. In the event that a Series B Original Price Adjustment is made, the Series B Conversion Price will be adjusted at the same time so that the Series B Conversion Price is adjusted to the number that the Series B Conversion Price would be had the Series B Original Price at the date of the initial issuance of Series B Preferred Stock been the Series B Original Price as calculated after the Series B Original Price Adjustment was made.

2. Mechanics of Conversion. The holder of any shares of Preferred Stock may exercise the conversion rights as to such shares or any part thereof by delivering to the Corporation during regular business hours, at the office of any transfer agent of the Corporation for the Preferred Stock, or at the principal office of the Corporation or at such other place as may be designated by the Corporation, the certificate or certificates for the shares to be converted, duly endorsed for transfer to the Corporation or accompanied by a written instrument or instruments of transfer (if required by it), accompanied by written notice stating that the holder elects to convert all or a number of such shares represented by the certificate or certificates.

Such notice shall also state such holder's name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. Conversion shall be deemed to have been effected on the date when such delivery is made, and such date is referred to herein as the "Conversion Date". As promptly as practicable thereafter, the Corporation shall issue and deliver to such holder, at such office or other place designated by the Corporation, a certificate or certificates for the number of full shares of Common Stock to which such holder is entitled and a check for cash with respect to any fractional interest in a share of Common Stock as provided in Subsection E.3 below. The holder shall be deemed to have become a shareholder of record on the applicable Conversion Date. Upon conversion of only a portion of the number of shares of Preferred Stock represented by a certificate surrendered for conversion, the Corporation shall issue and deliver to the holder of the certificate so surrendered for conversion, at the expense of the Corporation, a new certificate covering the number of shares of Preferred Stock representing the unconverted portion of the certificate so surrendered.

3. Fractional Shares. No fractional shares of Common Stock or scrip shall be issued upon conversion of shares of Preferred Stock. If more than one share of Preferred Stock shall be surrendered for conversion at any one time by the same holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of Preferred Stock so surrendered. Instead of any fractional shares of Common Stock that would otherwise be issuable upon conversion of any shares of Preferred Stock, the Corporation shall pay a cash adjustment in respect of such fractional interest equal to the fair market value of such fractional interest as determined in good faith by the Board of Directors.

4. Payment of Taxes. The Corporation shall pay any and all issue and other taxes that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of Preferred Stock pursuant hereto (but not any income or capital gain taxes payable in respect of receipt of such shares). The Corporation shall not, however, be required to pay any tax that may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the Preferred Stock so converted was registered, and no such issue or delivery shall be made unless and until the person requesting such issue 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.

5. Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available, out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of Preferred Stock, the full number of shares of Common Stock deliverable upon the conversion of all Preferred Stock from time to time outstanding. The Corporation shall from time to time use its best effort to obtain necessary director and shareholder approvals, in accordance with the DGCL, to increase the authorized amount of its Common Stock if at any time the authorized amount of its Common Stock remaining unissued shall not be sufficient to permit the conversion of all of the shares of Preferred Stock at the time outstanding, and shall take all such actions as are necessary to increase such authorized amount of Common Stock upon obtaining such approvals. Before taking any action that would cause an adjustment reducing the Conversion Price of the Preferred Stock below the then-par value of the shares of Common Stock issuable upon the conversion of

the Preferred Stock, the Corporation will take any corporate action that may, in the opinion of its counsel, be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable shares of Common Stock at such adjusted Conversion Price.

6. Adjustment for Reclassification, Exchange and Substitution. If the Common Stock issuable upon the conversion of the Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or combination of shares or stock dividend provided for in Subsection F.1), then and in each such event the holder of each share of Preferred Stock shall have the right thereafter to convert such share into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification, or other change, by holders of the number of shares of Common Stock into which such shares of Preferred Stock might have been converted immediately prior to such reorganization, reclassification, or change.

7. Reorganizations, Mergers or Consolidations. In case of any consolidation or merger of the Corporation with or into another Person or the sale of all or substantially all of the assets of the Corporation to another corporation (other than a consolidation, merger or sale treated as a Liquidating Event), each share of Preferred Stock shall thereafter be convertible into the kind and amount of shares of stock or other securities or property that a holder of the number of shares of Common Stock of the Corporation deliverable upon conversion of Preferred Stock would have been entitled upon such consolidation, merger or sale; and in such case, appropriate adjustment (as determined in good faith by the Board of Directors) shall be made in the application of the provisions of Sections E and F with respect to the rights and interest thereafter of the holders of Preferred Stock, to the end that the provisions set forth in Sections E and F shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the conversion of Preferred Stock.

8. Listing of Shares Issuable Upon Conversion. If any shares of Common Stock to be reserved for the purpose of conversion of shares of Preferred Stock require registration or listing with, or approval of, any governmental authority, stock exchange or other regulatory body under any federal or state law or regulation or otherwise, before such shares may be validly issued or delivered upon conversion, the Corporation will in good faith and as expeditiously as possible endeavor to secure such registration, listing or approval, as the case may be.

9. Valid Issuance. All shares of Common Stock that may be issued upon conversion of the shares of Preferred Stock will upon issuance by the Corporation be validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issuance thereof.

F. Adjustment of the Conversion Price.

The Conversion Price of the Preferred Stock from time to time in effect shall be subject to adjustment from time to time as follows.

1. Stock Splits, Dividends and Combinations. In case the Corporation shall at any time subdivide the outstanding shares of Common Stock or shall issue a dividend in Common Stock on its outstanding Common Stock without a corresponding subdivision of or dividend on the Preferred Stock, the Conversion Price of the Series A Preferred Stock and the Series B Preferred Stock in effect immediately prior to such subdivision or the issuance of such dividend shall be proportionately decreased, and in case the Corporation shall at any time combine the outstanding shares of Common Stock into a lesser number of shares of Common Stock without a corresponding combination of the Series A Preferred Stock and the Series B Preferred Stock, the Conversion Price of the Series A Preferred Stock and the Series B Preferred Stock in effect immediately prior to such combination shall be proportionately increased, concurrently with the effectiveness of such subdivision, dividend or combination, as the case may be.

2. Noncash Dividends, Stock Purchase Rights, Capital Reorganizations and Dissolutions. In case:

(a) the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or any other distribution, payable otherwise than in cash; or

(b) the Corporation shall take a record of the holders of its Common Stock for the purpose of entitling them to subscribe for or purchase any shares of stock of any class or to receive any other rights; or

(c) of any capital reorganization of the Corporation, reclassification of the capital stock of the Corporation (other than a subdivision or combination of its outstanding shares of Common Stock), consolidation or merger of the Corporation with or into another Person that is not a Liquidating Event or conveyance of all or substantially all of the assets of the Corporation to another corporation that is not a Liquidating Event;

then, and in any such case, the Corporation shall cause to be mailed to the transfer agent for the Preferred Stock and to the holders of record of the outstanding Preferred Stock, at least ten (10) days prior to the date hereinafter specified, a notice stating the date on which (i) a record is to be taken for the purpose of such dividend, distribution or rights, or (ii) such reclassification, reorganization, consolidation, merger, conveyance, dissolution, liquidation or winding up is to take place and the date, if any is to be fixed, as of which holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reclassification, reorganization, consolidation, merger, conveyance, dissolution, liquidation or winding up.

3. Issuances at Less Than the Conversion Price. Upon the issuance or sale by the Corporation of (any such issuance shall be referred to hereinafter as a "Dilutive Issuance"):

(a) Common Stock for a consideration per share less than the Conversion Price in effect immediately prior to the time of such issue or sale; or

(b) any Stock Purchase Rights where the consideration per share for which shares of Common Stock may at any time thereafter be issuable upon exercise thereof (or, in the case of Stock Purchase Rights exercisable for the purchase of Convertible Securities, upon the subsequent conversion or exchange of such Convertible Securities) shall be less than the Conversion Price in effect immediately prior to the time of the issue or sale of such Stock Purchase Rights; or

(c) any Convertible Securities where the consideration per share for which shares of Common Stock may at any time thereafter be issuable pursuant to the terms of such Convertible Securities shall be less than the Conversion Price in effect immediately prior to the time of the issue or sale of such Convertible Securities;

other than an issuance of Common Stock pursuant to Subsections F.1 or F.6 hereof or in connection with any waiver provided pursuant to Subsection F.7 hereof (any such issuance shall be referred to hereinafter as a "Dilutive Issuance"), then forthwith upon such issue or sale, the Conversion Price shall be reduced concurrently with such issue in order to increase the number of shares of Common Stock into which the Preferred Stock is convertible to a price (calculated to the nearest cent) determined by the following formula:

$$CP^1 = CP * \frac{N + C}{N + AS}$$

where:

CP¹ = the Conversion Price as so adjusted to reflect the Dilutive Issuance;

CP = the Conversion Price immediately prior to the Dilutive Issuance;

N = the number of shares of Common Stock outstanding immediately prior to such issuance (or deemed issuance) assuming conversion of all outstanding securities convertible into Common Stock, including all Preferred Stock and assuming the exercise of all Stock Purchase Rights outstanding immediately prior to such issuance;

C = the number of shares of Common Stock that the aggregate consideration received or deemed to be received by the Corporation for the total number of additional securities so issued or deemed to be issued would purchase if the purchase price per share were equal to the then existing Conversion Price;

AS = the number of shares of Common Stock so issued or deemed to be issued.

(a) Notwithstanding the foregoing, the Conversion Price shall not be reduced at such time if such reduction would be an amount less than \$.01, but any such amount

shall be carried forward and deduction with respect thereto made at the time of and together with any subsequent reduction that, together with such amount and any other amount or amounts so carried forward, shall aggregate \$.01 or more. For purposes of the foregoing calculation, Convertible Securities and Stock Purchase Rights shall be deemed outstanding and issued or sold at the time of such issue or sale.

4. Series A Preferred Stock and Series B Preferred Stock Conversion Price Adjustments. The preceding Section F.3. calculations of the adjusted Conversion Price for either Series A Preferred Stock or Series B Preferred Stock shall use the Series A Conversion Price or the Series B Conversion Price as context requires.

5. Determination of Consideration. The "consideration actually received" by the Corporation for the issuance, sale, grant or assumption of shares of Common Stock, Stock Purchase Rights or Convertible Securities, irrespective of the accounting treatment of such consideration, shall be valued as follows:

(a) in the case of cash, the net amount received by the Corporation after deduction of any accrued interest or dividends and before deducting any expenses paid or incurred and any underwriting commissions or concessions paid or allowed by the Corporation in connection with such issue or sale;

(b) in the case of consideration other than cash, the value of such consideration, which shall not include the value of any Convertible Securities being converted or exchanged, as determined by the Board of Directors in good faith, after deducting any accrued interest or dividends; and

(c) with respect to the issuance of Stock Purchase Rights and Convertible Securities, the total consideration, if any, received by the Corporation as consideration for the issuance of the Stock Purchase Rights or the Convertible Securities, as the case may be, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the exercise of such Stock Purchase Rights or upon the conversion or exchange of such Convertible Securities, as the case may be, in each case after deducting any accrued interest or dividends.

In the event of any change in (i) the consideration, if any, payable upon exercise of any Stock Purchase Rights or upon the conversion or exchange of any Convertible Securities, or (ii) the rate at which any Convertible Securities are convertible into or exchangeable for shares of Common Stock, the Conversion Price as computed upon the original issue thereof shall forthwith be readjusted to the Conversion Price that would have been in effect at such time had such Stock Purchase Rights or Convertible Securities provided for such changed purchase price, consideration or conversion rate, as the case may be, at the time initially granted, issued or sold. On the expiration of any Stock Purchase Rights not exercised or of any right to convert or exchange under any Convertible Securities not exercised, the Conversion Price then in effect shall forthwith be increased to the Conversion Price that would have been in effect at the time of such expiration had such Stock Purchase Rights or Convertible Securities never been issued. No readjustment of the Conversion Price pursuant to this paragraph shall (A) increase the Conversion Price by an amount in excess of the adjustment originally made to such Conversion

Price in respect of the issue, sale or grant of the applicable Stock Purchase Rights or Convertible Securities, or (B) require any adjustment to the amount paid or number of shares of Common Stock received by any holder of the Preferred Stock upon any conversion of any share of Preferred Stock prior to the date upon which the readjustment to such Conversion Price shall occur.

6. Exclusions for Adjustment for Issuances at Less Than the Conversion Price. Notwithstanding anything herein to the contrary, the Corporation shall not be required to make any adjustment of the Conversion Price in the case of: (a) the issuance or sale of shares or options, or a combination of both, of the Corporation's Common Stock, to directors, officers, employees or consultants of the Corporation pursuant to stock options or stock purchase plans or agreements, whether "qualified" for tax purposes or not, pursuant to plans or arrangements approved by the Board of Directors; (b) the issuance of Common Stock upon conversion of the Preferred Stock; (c) the issuance of shares of capital stock by way of dividend or similar distribution on the Preferred Stock; (d) the issuance of shares of capital stock for which adjustment is made pursuant to Subsections F.1 or F.2 hereof; (e) shares of Common Stock issued in a Qualified Public Offering; (f) the issuance of shares of capital stock, Convertible Securities or Stock Purchase Rights issued pursuant to leasing, financing or other lending arrangements approved by the Board of Directors up to an aggregate one percent (1%) of the fully diluted capitalization of the Corporation as of the date of such issuance; or (g) the issuance of shares of Common Stock issued pursuant to the exercise of any rights, options or warrants to purchase capital stock, or securities of any type whatsoever that are, or may become, convertible into or exercisable for capital stock, outstanding as of the date of filing of this Certificate of Incorporation.

7. No Adjustment of Conversion Price. No adjustment in the Conversion Price for any series of Preferred Stock shall be made as the result of the issuance or sale of Common Stock, Stock Purchase Rights and/or Convertible Securities if the Corporation receives written notice prior to such issuance from the holders of at least a majority of the then outstanding shares of such series of Preferred Stock agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance or sale of Common Stock, Stock Purchase Rights and/or Convertible Securities.

8. Certificate of Adjustment. Upon the occurrence of each adjustment or readjustment of the Series A Conversion Price or Series B Conversion Price pursuant to this Section F, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms thereof, and prepare and furnish to each holder of Preferred Stock affected thereby a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written notice at any time of any holder of Preferred Stock furnish or cause to be furnished to such holder a like certificate setting forth (a) such adjustment or readjustment, (b) the Conversion Price, as applicable, at the time in effect, and (c) the number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the conversion of such holder's shares.

G. Mandatory Conversion.

1. Each share of Preferred Stock and each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the then-applicable conversion rate upon the occurrence of a closing of a Qualified Public Offering. In addition, (a) each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the then applicable conversion rate upon the affirmative vote of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, voting as a separate class on an as-converted basis and (b) each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the then applicable conversion rate upon the affirmative vote of the holders of at least a majority of the then outstanding shares of Series B Preferred Stock, voting as a separate class on an as-converted basis.

2. Upon the occurrence of any of the events specified in Subsection G.1 above, the outstanding shares of the applicable Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of the applicable Preferred Stock are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Series A Preferred Stock or Series B Preferred Stock, as applicable, the holders of all outstanding shares of Series A Preferred Stock or Series B Preferred Stock, as applicable, shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Series A Preferred Stock or Series B Preferred Stock, as applicable. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of the Series A Preferred Stock or Series B Preferred Stock, as applicable, surrendered were convertible on the date on which such automatic conversion occurred.

ARTICLE VI

The rights, preferences, privileges, restrictions and other matters relating to the Common Stock are as follows.

A. Voting Rights. Except as otherwise required by law or this Certificate of Incorporation, each holder of Common Stock shall have one vote in respect of each share of stock held by such shareholder of record on the books of the Corporation for the election of directors elected all or in part by the holders of Common Stock and on all matters submitted to a vote of holders of Common Stock; provided, however, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to the Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to the Certificate of

Incorporation or pursuant to the DGCL. Except as otherwise required by the DGCL or as set forth in this Certificate of Incorporation or any amendment or restatement thereof filed in accordance with the DGCL, the holders of Common Stock and Preferred Stock shall vote together as a single class on all matters submitted to the shareholders for a vote with holders of Preferred Stock voting on an as converted to Common Stock basis.

B. Dividends. Subject to the preferential rights of the Series B Preferred Stock and Series A Preferred Stock, the holders of shares of Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of the assets of the Corporation which are by law available therefor, dividends payable either in cash, in property or in shares of capital stock.

C. Dissolution, Liquidation or Winding Up. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, the assets of the Corporation shall be distributed as provided in Sections B.1 and B.2 of Article V hereof.

ARTICLE VII

Unless and except that the bylaws of the Corporation shall so require, elections of directors may be, but shall not be required to be, by written ballot.

ARTICLE VIII

The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The initial number of directors shall be five (5); provided, however, that such number may be changed in the manner provided in the Bylaws of the Corporation, subject to any restrictions which may be set forth in this Certificate of Incorporation.

ARTICLE IX

The Corporation is to have perpetual existence.

ARTICLE X

The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares of Common Stock then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the DGCL.

ARTICLE XI

To the fullest extent permitted by law as the same exists or as may hereafter be amended, no present or former director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Neither any

amendment nor repeal of this Article, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision. If the DGCL or any other law of the State of Delaware is amended after approval by the stockholders of this Article XI to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended.

ARTICLE XII

A. Availability of Indemnification. Each person who was or is a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether by or in the right of the Corporation or otherwise (a "Proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, partner (limited or general) or agent of another corporation or of a partnership, joint venture, limited liability company, trust or other enterprise, including service with respect to an employee benefit plan, shall be (and shall be deemed to have a contractual right to be) indemnified and held harmless by the Corporation (and any successor to the Corporation by merger or otherwise) to the fullest extent authorized by, and subject to the conditions and (except as provided herein) procedures set forth in the DGCL, as the same exists or may hereafter be amended (but any such amendment shall not be deemed to limit or prohibit the rights of indemnification hereunder for past acts or omissions of any such person insofar as such amendment limits or prohibits the indemnification rights that said law permitted the Corporation to provide prior to such amendment), against all expenses, liabilities and losses (including attorneys' fees, judgments, fines, ERISA taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith; provided, however, that the Corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors. Persons who are not directors or officers of the Corporation and are not so serving at the request of the Corporation may but need not be similarly indemnified in respect of such service to the extent authorized at any time by the Board of Directors. The indemnification conferred in this Article also shall include the right to have the Corporation (and such successor) promptly pay the expenses (including attorneys' fees) incurred in the defense of or other involvement in any such Proceeding in advance of its final disposition; provided, however, that, if and to the extent the DGCL requires, the payment of such expenses (including attorneys' fees) incurred by a director or officer in advance of the final disposition of a Proceeding shall be made only upon delivery to the Corporation of an undertaking by or on behalf of such officer to repay all amounts so paid in advance if it shall ultimately be determined that such officer is not entitled to be indemnified under this Article or otherwise; and provided further, that, such expenses incurred by other employees and agents may be so paid in advance upon such terms and conditions, if any, as the Board of Directors deems appropriate. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board of Directors in its reasonable discretion. Notwithstanding the foregoing sentence, the

Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board of Directors.

B. Non-exclusivity. The rights to indemnification and advance payment of expenses provided by Section A of this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification and advance payment of expenses may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

C. Survival of Indemnification. The indemnification and advance payment of expenses and rights thereto provided by, or granted pursuant to, Section A of this Article VII shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee, partner or agent and shall inure to the benefit of the personal representatives, heirs, executors and administrators of such person.

D. Insurance. The Board of Directors may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article XII; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article XII.

E. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article XII 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. The rights provided hereunder shall inure to the benefit of any indemnified person and such person's heirs, executors and administrators.

ARTICLE XIII

Any notice required by the provisions of this Certificate of Incorporation shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by electronic communication in compliance with the provisions of the DGCL if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with verification of receipt. All notices shall be addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

ARTICLE XV

Any share of Preferred Stock redeemed, purchased, converted or otherwise acquired by the Corporation shall be deemed retired and shall be cancelled and may not under any circumstances thereafter be reissued or otherwise disposed of by the Corporation. The

Corporation shall use its best efforts promptly thereafter to amend this Certificate of Incorporation to effect the corresponding reduction in the Corporation's capital stock.

ARTICLE XVI

The Corporation hereby renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any and all business opportunities that are presented to the holders of Preferred Stock whose primary business is investment activities, or their Affiliates (including, without limitation, any representative or Affiliate of such holders of Preferred Stock serving on the Board of Directors, but excluding any person who is an employee or officer of the Corporation or any of its subsidiaries) (each an **"Investor Party"** and, collectively, the **"Investor Parties"**), unless such business opportunity is presented to, or otherwise comes into the possession of, an Investor Party in such Investor Party's capacity as a member of the Board of Directors. Without limiting the foregoing renunciation, the Corporation (a) acknowledges that certain of the Investor Parties are in the business of making investments in, and have or may have investments in, other businesses similar to and that may compete with the businesses of the Corporation (**"Competing Businesses"**) and (b) agrees that the Investor Parties shall have the unfettered right to make investments in other Competing Businesses independent of their investments in the Corporation.

ARTICLE XVII

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Delaware General Corporation Law or the Corporation's certificate of incorporation or bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten (10) days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction. If any provision or provisions of this Article Seventeenth 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 Article Seventeenth (including, without limitation, each portion of any sentence of this Article Seventeenth 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.

ARTICLE XVIII

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

ARTICLE XIX

Any notice required under this Certificate may be given by email, provided that receipt of such email is confirmed, at any email address provided by a stockholder to the Corporation for notice purposes.

ARTICLE XX

The name and mailing address of the sole incorporator is as follows:

NAME

Edward D. Hirsch

ADDRESS

1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, GA 30326

By: /s/ Edward D. Hirsch
Edward D. Hirsch, Incorporator